



TC03612

Appeal number: TC/2011/09936

*VAT – Default surcharge – whether reasonable excuse – No –
Section 71 VATA – Appeal dismissed*

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

CSDL LTD t/a SAKS HAIR & BEAUTY

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S
REVENUE & CUSTOMS**

Respondents

**TRIBUNAL: JUDGE KENNETH MURE, QC
MR JOHN DAVISON**

Sitting in public at North Shields on Tuesday 14 May 2014

Appellant – not represented

Mr A Boal, Officer of HMRC, for the Respondents

DECISION

1. The appellant company was not represented in this appeal. Its director
5 Mr Hodgkins, had advised by email that he did not intend to appear. Accordingly the
hearing proceeded in his absence.

2. The appeal relates to a VAT default surcharge of £86.12 for the period 07/11.
Payment of VAT was due on 7 September 2011. It was not paid until
16 September 2011. The Return was not received until 6 September 2011.
10 Accordingly payment was made nine days late.

3. The BACS payment record included in the papers (item 3) indicates that
payment of the VAT due was instructed on 6 September 2011 but payment was not to
be made until the 16th. In the absence of any explanation the late payment would
appear to have been a conscious decision.

15 4. The appellant's director was well aware of the default surcharge system.
According to the Schedule provided this was the fourth default, although no surcharge
had been occasioned previously. There had been defaults in respect of periods 10/10,
01/11 and 04/11. On the second and third occasions a surcharge had not been
imposed because the amount was below the £400 exemption margin. On this fourth
20 default a 10% surcharge of £86.12 had been imposed.

5. It appears that the appellant's business had suffered from adverse trading and
economic conditions. While we sympathise we have to consider the interpretation of
reasonable excuse. In terms of Section 71 VATA 1994 an insufficiency of funds is
ordinarily not sufficient.

25 6. For these reasons we dismiss the appeal.

7. This document contains full findings of fact and reasons for the decision. Any
party dissatisfied with this decision has a right to apply for permission to appeal
against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax
Chamber) Rules 2009. The application must be received by this Tribunal not later
30 than 56 days after this decision is sent to that party. The parties are referred to
"Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)"
which accompanies and forms part of this decision notice.

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KENNETH MURE QC
TRIBUNAL JUDGE

RELEASE DATE: 22 May 2014

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