



TC03901

Appeal number: TC/2013/02734, TC/2013/02735 & TC/2013/02736

Self assessment returns – determination - appeal – does tribunal have jurisdiction? – No – appeals struck out

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

UPTON PARK HALAL MEAT AND POULTRY Applicants
MRS B ASKARIAN
MR S ASKARIAN

- and -

THE COMMISSIONERS FOR HER MAJESTY'S Respondents
REVENUE & CUSTOMS

TRIBUNAL: JUDGE ALISON MCKENNA
MR IAN MENZES-CONACHER FCA

Sitting in public at Bedford Square on 29 July 2014

Mr M Arthur of Martyn F Arthur Limited for the Appellants

Mr T Burke of HMRC for the Respondents

DECISION

1. This matter concerns the Applicants' application for permission to appeal out of
5 time against assessments to tax. The appeals concerned both Mr and Mrs Askarian's
personal self assessment returns and the partnership returns for their business.

2. Mr Arthur, on behalf of the Applicants, explained that this was an unusual case
in which HMRC was seeking to enforce historical debts in bankruptcy proceedings
but that the Applicants' advisers had been unable to obtain copies of the documents
10 showing how the debts had arisen. He said that he had been assisted by the service of
the document bundle for hearing for today, but that there were still many unanswered
questions. He had asked the Court for the bankruptcy proceedings to be adjourned
pending an application to the Tribunal, but he was not in a position to pursue the
application to the Tribunal today because he did not have access to the relevant
15 documentation. He said he wanted a decision from the Tribunal that he could show to
the Bankruptcy court.

3. Mr Arthur had, on behalf of his client, submitted an "outline" Notice of Appeal
to the Tribunal. It had been made many years after the time limit for amending self
assessment returns and it did not advance a positive case in respect of the appeals. In
20 December 2013 Judge Kempster had consolidated these appeals and directed the
Applicants to file further and better particulars of their grounds of appeal by 31
January 2014, but that direction had not been complied with. Mr Arthur explained
that he had been unable to comply with it as he had hoped that HMRC would pass the
historical documentation to him and it had not. Mr Arthur very fairly indicated that
25 accordingly he expected the Tribunal to strike out the appeals today.

4. Mr Burke explained that the partnership return had been subject to an enquiry in
respect of the 2004-2005 year, but this had been settled. In the year 2005-2006,
paper returns for Mr and Mrs Askarian had been submitted but the return for 2006-
2007 for each of them had been incomplete and was returned. In relation to the
30 partnership returns, the years 2007 – 2008 and 2008 – 2009 had disclosed profits but
no return had been made for 2009 – 2010 (or indeed any later years). HMRC had
determined the personal tax liability of Mr and Mrs Askarian with reference to the
information received in the partnership returns. Mr Burke explained that HMRC's
determination of the amount of tax due based on the basis of the self assessment
35 returns could only have been displaced by a valid return being filed within 12 months
of the determination, but this had not happened. The self assessment returns filed in
2013 had been too late to correct the previous position. In the circumstances, his view
was that the Applicants were today effectively seeking permission to appeal against
their own self assessment returns, which was not possible. Accordingly there were no
40 extensions to the time limits that the Tribunal could apply. He asked the Tribunal to
strike out the appeals for lack of jurisdiction. Mr Burke also helpfully indicated that
his review of the files for this hearing had convinced him that a sum of £56,000 had
been double-counted and should be deducted from the total tax due.

5. It was clear that many of the problems in these cases appeared to originate with the Applicants' previous agent. It was understood that he had been ill as he had informed HMRC at one time that he had had a heart attack. The Tribunal was sympathetic towards Mr and Mrs Askarian for the circumstances in which they found themselves, however we concluded that there was no jurisdiction to hear these appeals as it was impossible to identify what decision of HMRC was appealed against, whether there was a relevant time limit in respect of that decision and whether there was any discretion to extend any time limit. The Applicants had been given an opportunity to make a positive case to the Tribunal but they had not been able to do so. In all the circumstances we concluded that these appeals must now be struck out under rule 8 (2) (a) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009.

6. 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 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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**ALISON MCKENNA
TRIBUNAL JUDGE**

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RELEASE DATE: 13 August 2014