



**TC04135**

**Appeal number: TC/2012/5878, 6825 & 7834**

*VAT – procedure - appeal against denial of input tax in relation to transactions alleged to be connected to VAT fraud - application for further and better particulars and clarification of HMRC’s case.*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**VALE EUROPE LTD**

**Appellant**

**- and -**

**THE COMMISSIONERS FOR HER MAJESTY’S      Respondents  
REVENUE & CUSTOMS**

**TRIBUNAL: JUDGE CHARLES HELLIER**

**Sitting in public at 45 Bedford Square WC1 on 17 October 2014**

**David Scorey and Adam Woolnough instructed by Ernst & Young for the  
Appellant**

**Christopher Kerr, instructed by the General Counsel and Solicitor to HM  
Revenue and Customs, for the Respondents**

## DECISION and DIRECTIONS

1. This decision relates to an application for directions made by Vale Europe in the context of its appeal against decisions of HMRC denying it VAT input tax credit in respect of 66 purchases of palladium and platinum. HMRC allege that these purchases were connected with VAT fraud and that Vale Europe knew or should have known of that connection, or alternatively of a connection to “fraud in general”, and that as a result Vale Europe is not entitled to input tax credit.

2. The argument that actual connection to VAT fraud coupled with knowledge that, or being in a position where it should have been known that, there was a connection to “fraud in general” prevents a trader from being entitled to input tax credit, is a novel one. The primary argument that connection to VAT fraud coupled with the trader knowing, or being in a position where it should have known, of such a connection is familiar to readers of the many cases in which the courts and the tribunals have applied the doctrine in *Kittel v Belgium* [2008] STC 1537.

3. The application seeks the making of 11 directions whose main import is that Vale Europe seeks further particularisation of HMRC’s statement of case. HMRC had served its witness statements before the application was made.

“Pleadings”

4. There is no reference to pleadings in the tribunal’s rules. In the context of standard and complex appeals the only reference to something akin to a pleading is HMRC’s statement of case. Rule 25 requires the respondent to deliver a statement of case setting out the legislative provision under which the appeal was made and “set[ting] out the respondent’s position in relation to the case”. That is all. Anything else is left to the discretion of the tribunal and the good sense and cooperation of the parties.

5. That discretion is to be exercised in accordance with the overriding objection in Rule 2: to deal with cases justly and fairly. Significantly for the present application Rule 2(2) says that being just and fair includes:

“avoiding unnecessary formality and seeking flexibility in the proceedings”.

Not just allowing flexibility but seeking it; not tolerating unnecessary formality, but avoiding it.

6. Being just and fair also means letting the applicant know what the case is against him. That may be done in the statement of case. But where there has been correspondence between the parties before the appeal, where witness statements and documents have been exchanged, and where there have been discussions between the parties, the statement of case need not be a comprehensive document. The need to understand the case may be met less formally and more flexibly by other means. All that is required is that it is somehow made clear to the Appellant what the case is against him so that he can deal with it.

7. The tribunal does not have the more complex rules of the CPR. But even under those rules the trend has been away from complex voluminous pleadings and from fighting over them:

5 “Unless there is some obvious purpose to be served by fighting over the precise terms of a pleading contests over the terms are to be discouraged” (Lord Woolf in *McPhillemy v Tiimes Newspapers* 1999 3 All ER 775)

8. In the same case Lord Woolf said that the need for extensive pleadings and particulars would be reduced by the exchange of witness statements, and that these and the identification of documents relied on would normally make the detail of the case obvious. The formal pleadings should make clear the general nature of the case.

9. In *Three Rivers District Council v Governor and Company of the Bank of England* 2001 2 All ER 513 Lord Millet said that the function of pleadings is to give the party opposite sufficient notice of the case which is being made against him. In a forum in which there are no formal pleadings the test must be: is the case the Appellant has to meet in this appeal sufficiently clear in all the circumstances?

10. There was to my mind an unwelcome degree of unnecessary formality in the terms of the Appellant’s requests for further particulars.

11. In particular I regarded the application that “all allegations contained in the respondents’ witness statements regarding the fraud(s) of third parties which are not pleaded in the Consolidated Statement of Case are to be redacted or deleted” as wholly unnecessary formality.

#### Dishonesty

12. In *Three Rivers* Lord Millet said that an

25 “...allegation of fraud or dishonesty must be sufficiently particularised,... particulars of facts which are consistent with honesty are not sufficient. This is only partly a matter of pleading. It is also a matter of substance. As I have said, the defendant is entitled to know the case he has to meet. But since dishonesty is usually a matter of inference from primary facts, this involves knowing not only that he is alleged to have acted dishonestly, but also the primary facts which will be relied upon to try to justify the inference.”

13. There is to my mind a difference between a tribunal saying, "we heard Mrs X and found her dishonest", and a tribunal saying, "although we have not seen Mr Y, on the evidence before us we find that he was likely to have been dishonest". The difference lies in the fact that in the former case Mrs X had a chance to clear her reputation; if she has had that opportunity a finding that she was dishonest is more personal and more serious. But if she has a chance it must be a fair one: if the allegation is sprung on her she may not have the composure or the depth of recollection to deal with it; if it relies on information which she might wish to challenge, she needs to know in advance in order to get her response in order. Mr Y, by contrast, is not in the same position: what he has said is not put to the test and doubted: all that is said is that on the (limited, as it always will be in his absence)

evidence, the tribunal found it likely that he was dishonest. In both cases of course the allegation is a serious one and ought not to be made save on good grounds.

14. Thus in *Pegasus Birds Ltd v HMRC* [2004] STC 1509, the Court of Appeal said that allegations of impropriety against an officer exercising his judgement in assessing VAT should be clearly specified in advance. The officer in that situation is the personification of the respondent and will almost always be called give evidence. In such circumstances he is entitled to have a fair opportunity to acquit himself.

15. Likewise in *HMRC v Noel Dempster* [2008] STC 2079, Briggs J said "it is a cardinal principle of litigation that is serious allegations in particular allegations of dishonesty are to be made *against a party who is called as a witness*, they must be both fairly and squarely pleaded, and fairly and squarely put to that which is in at examination".[my italics]

16. This requirement of procedural fairness when dealing with dishonesty applies in this tribunal alongside, or as part of, its duty to be just and fair; but procedural fairness is not to be confused with formality. What is required is that someone who is a party or who in a broad sense represents a party or who is to be called as a witness and whose honesty is to be put at stake before the tribunal must by some fair means be given good notice of that fact and the evidence which will be relied upon in pursuit of the allegation; it is not required that the statement of case contains those elements. Clearly also it must be put squarely to her when she gives evidence.

### **The application in detail.**

17. In his skeleton argument (which takes account of HMRC's response to the requests) Mr Scorey distils the appellant's requests for directions and for the delivery of further information into seven headings.

25 *1. Fraud in general: meaning*

18. HMRC clearly alleged (in their statement of case, their reply and before me) that if (i) a purchase were connected to VAT fraud and (ii) the appellant had knowledge or means of knowledge of the connection of their purchase to "fraud in general", then input tax credit is not available. Whether this is a sustainable proposition of law is a question for the tribunal at the substantive hearing. As I have said Mr Kerr accepted that it was a novel proposition.

19. Vale Europe ask that HMRC give particulars of the "fraud in general" to which HMRC refer. Mr Kerr told me that they regarded a purchase as connected to fraud in general if it was connected to "deals which were not part of a genuine commercial market", and that by alleging that the Appellant knew that the purchase was so connected there was no necessary implication of dishonesty.

20. This to my mind makes HMRC's case sufficiently clear for the Appellant to marshal its arguments and evidence. A "genuine commercial market" is not a term of art; HMRC have set out the factors which they say show that the transactions were not

part of such a market. Mr Kerr has made clear that HMRC will not be seeking to show dishonesty as part of showing knowledge of connection to fraud in general.

*2. Fraud in general: issues of law.*

21. The appellant complained that the legal basis for the proposition is not spelled  
5 out in the statement of case.

22. Clearly HMRC should set out its argument on this proposition before the hearing. Understanding the legal argument for the proposition may help the appellant prepare its case. Nothing is lost and clarity may be gained if the argument is set out sooner rather than later. I shall direct that HMRC serve a short note summarising the  
10 basis for its argument within six weeks.

*3 Alleged fraudsters*

23. The appellant complains that in relation to deals 1 to 27 (in which it was supplied by Opera) HMRC's statement of case does not make clear which entity committed the relevant fraudulent evasion of VAT.

15 24. Mr Kerr says that it is not necessary for HMRC to identify who fraudulently evaded VAT for all they had to prove was that the appellant's purchases were connected with the fraudulent evasion of VAT. They say they are not required to plead a specific case against Opera or any other third party. They say they rely "inter-  
20 alia upon the evidence served in relation to Opera and the other parties which is summarised in a statement of case".

25. What is required is that from all the material the Appellant should know (a) what material facts and propositions of law are alleged and (b) what principal pieces of evidence are alleged in relation thereto. HMRC have to my mind set out their shop: (a) they have said that they regard the *Kittel* tests as including a test that there was a  
25 connection to fraudulent evasion of VAT and that such fraudulent evasion of VAT may in their opinion be established without showing that any particular person fraudulently evaded VAT; and (b) they have set out the evidence which they believe will prove that there was such fraudulent evasion of VAT. They may be wrong in their apprehension of the law, and they tribunal may find the facts which they allege  
30 do not prove that there was fraudulent evasion of VAT, but that is neither here nor there: the Appellant knows the case it has to meet.

26. Plainly, as part of this, HMRC are alleging that someone, natural or legal was fraudulent. That allegation is clear. The tribunal at the substantive hearing will have to consider the seriousness of this allegation and the cogency of the evidence tendered  
35 supported it. But, for the reasons explained earlier in this decision, it will be only if the appellant gives notice that it intends to produce a witness involved in one of the companies in a supply chain, that HMRC may have to come off the fence and decide whether or not to allege that that witness was involved in fraud and if so give particulars of the reasons for so asserting.

27. Finally I should note that I found that the detail in paragraphs 24 and 25 of the statement of case to be, or include, an allegation (and the recitation of the basis for such allegation) that either Opera or one or more of its three named UK suppliers had fraudulently evaded VAT.

5 4. *Natural persons responsible for the frauds*

28. The appellant seeks a direction that HMRC name the individuals whose knowledge or actions are to be attributed to their principals and who were responsible for committing the alleged frauds:

- (1) within Opera,
- 10 (2) within Par 3, Baio, S & G, and East, the alleged defaulters in chains alleged to lead to Cappella, the Appellant's supplier,
- (3) within Star, a supplier to the Appellant, and
- (4) within Safeguard, the alleged defaulter in a supply chain alleged to lead to CG Metals, one of the Appellant's suppliers.

15 29. In its skeleton argument the Appellant says that the Commissioners' refusal to name the natural persons responsible for the fraud employed by each alleged fraudster company has made it impossible for it to prepare its evidence because it is unaware of how the Commissioners intend to impute the knowledge of natural persons to their employer.

20 30. HMRC say they are not required to identify individuals: all they have to do to make their case is to say that the evidence on which they rely shows that there was VAT fraud. In other words that the actions and circumstances which they list, and of which they intend to adduce evidence, lead to the conclusion that the relevant companies committed VAT fraud

25 31. Plainly, there is implicit in this assertion that someone in each of these companies authorised or directed the fraud. If, as a matter of law, the failure to identify such person means that there cannot have been VAT fraud or if, as a matter of fact, the failure to identify a person causes the tribunal not to be persuaded of the VAT fraud, HMRC will lose, but the case the appellant has to meet, and the evidence  
30 that will be tendered to attempt to prove that case, are clear.

32. Again if the appellant gives notice that it intends to adduce the evidence of someone at a particular company, HMRC may have to come off the fence and either allege dishonesty on the part of that person or not.

5. *A "vehicle for fraud".*

35 33. In relation to three companies in the alleged supply chain to the appellant which are not alleged to be VAT defaulters, HMRC allege that they were not genuine traders but "vehicles for fraud". HMRC have explained that by this they mean that these companies were trading for fraudulent rather than for genuine commercial purposes.

34. The Appellant complains that this does not make clear the allegation against these companies and whether or not there is an allegation of conspiracy or dishonesty; it also says that it is unclear how these allegations are relevant to the case against the Appellant.

5 35. In reply HMRC say that they have set out how the appellant knew or should know of connection to fraud, and they do not need to set out the precise role of each intermediary.

36. If HMRC prove VAT fraud and connection of the Appellant's input to that fraud they do not, it seems to me, need to allege anything about the nature of the activities of intermediaries in order to prove connection to VAT fraud. It seems to me therefore that the allegation that these companies were vehicles for fraud can relate only to the issue of knowledge or means of knowledge. But these allegations appear to be referred to in parts of the statement of case dealing with connection to VAT fraud rather than the parts dealing with knowledge and means knowledge of the Appellant. Time and cost would be wasted dealing with this allegation if it is not relevant to VAT fraud or connection.

37. It seems to me that HMRC should make clear what aspect of its case they consider is supported by these allegations and the evidence tendered in support of them. I shall make a direction to that effect.

20 *6. Knowledge of activities and knowledge of the persons in the transaction chains.*

38. The Appellant seeks particulars of the knowledge and/or the alleged involvement in fraud of the companies in the transaction chains. It says that it is alleged that it had knowledge or means knowledge of connection but cannot ascertain from the statement of case what knowledge of the participation of the intermediaries in any fraud is alleged. It says that if the Appellant's knowledge or means of knowledge is to be proved by inference from the appellant's knowledge of matters relating to third parties, HMRC must set out what they consider the third parties knew or in what they were involved.

39. I fear that I do not fully understand this argument. It seems to me that HMRC may advance the case that the Appellant had actual knowledge of certain facts, and on that basis say that the knowledge of those facts means that the Appellant had knowledge of connection to fraud (of some sort) or the means of knowledge of such fraud. It is then for the tribunal to decide whether the appellant did have knowledge of any of those facts, and whether such primary knowledge meant that it had knowledge or means of knowledge of connection to fraud. If HMRC do not include certain extra facts in their case, the appellant is not disadvantaged for it has only to meet the facts set out on HMRC's stall and the inferences from those facts which HMRC urge on the tribunal. The appellant meets the case by disputing knowledge of the facts and countering the inference. If HMRC had at their disposal evidence as to the precise involvement the intermediaries or their knowledge of the frauds and had an argument that for some reason that such was known by the appellant, then stating that evidence and that argument would provide a further hurdle for the appellant to surmount. The

refusal or inability of HMRC to venture such evidence or argument does not unfairly disadvantage the appellant.

*7. The appellant's knowledge and means of knowledge.*

(i) Individuals.

5 40. The appellant seeks from HMRC details of the individuals employed by it who  
had the asserted factual knowledge or knowledge of the fraud. The appellant says that  
it cannot respond to an allegation that the knowledge of an individual is to be  
attributed to the company without knowing which individual may be concerned.  
HMRC say that they do not know which individuals had the knowledge but clearly  
10 some did.

41. HMRC allege that the Appellant knew or ought to have known certain things. It  
thus imputes the knowledge of natural persons to the company. Vale Europe asks  
which natural persons HMRC has in mind. It does so for two reasons (i) so that it may  
test the argument that a person occupying a particular position in the company should  
15 have his or her knowledge attributed the company; and (ii) to be able, if it wishes, to  
call that person or those persons to give evidence of what he or she knew.

42. At the substantive hearing HMRC will no doubt have to make good the  
propositions: (1) either that there was one person who knew all the facts alleged or  
that there were a number of natural persons none of whom knew all the facts but  
20 whose combined knowledge encapsulated the relevant facts; (2) that those persons'  
knowledge can be attributed to the company, (3), if relevant, that it can be concluded  
that the company knew or ought to have known something which was the result of the  
combined knowledge of several natural persons none of whom knew everything, and  
(4) that the knowledge of those facts indicates either knowledge or means of  
25 knowledge of connection to VAT fraud or "fraud in general".

43. But without some identification of the persons said to have the relevant  
knowledge or bits of knowledge the appellant can rebut this only by calling all its  
employees to give evidence.. Where it is possible to limit the class of persons whose  
alleged knowledge is relevant time cost and complexity is saved.

30 44. Whilst HMRC say that they do not know the names of those who will have the  
knowledge they allege and so cannot name individuals, Mr Kerr made it clear that the  
knowledge HMRC allege the company to have had resided in those individuals who  
were responsible for the purchases and their authorisation (for making the contract,  
authorising it, payment and vetting). This description to my mind permits the  
35 appellant to advance evidence of who those persons were, and their testimony about  
the allegation in a manner which does not impose an unfair burden on them.

45. If HMRC intend to allege that as a matter of law the knowledge of the company  
may be ascertained by aggregating the knowledge of individuals none of whom knew  
everything they should indicate that such is the case, for to do so will enable the  
40 appellant to prepare its arguments in rebuttal. I shall make a direction to that effect.

(ii) What did the Appellant know?

46. Next, the Appellant says that the statement of case

5 "fails to connect the alleged requisite knowledge to the pleas regarding the alleged connection to the alleged fraud. The appellant was left unable to clarify whether the Commissioners will seek to argue that the Appellant had the requisite knowledge in relation to each of the facts and matters alleged to support the alleged fraud."

10 47. In this context it refers by example to paragraphs 55 and 80 in the statement of case, in which HMRC set out a number of alleged facts about the history, structure and nature of Opera and Star (these are followed by paragraphs of allegations about the conduct of the Appellant) . The Appellant says that HMRC must say whether they assert that the Appellant knew of this material, and if so how it knew.

15 48. I do not have much sympathy with this complaint. It is fairly obvious to me that in the statement of case HMRC are alleging that the appellant knew (or turned a blind eye to) the facts set out. HMRC needs by the evidence it has served to prove the fact of such knowledge and that such knowledge (or with the conduct alleged in the paragraphs following these particulars) meant relevant knowledge of connection, and its evidence may or may not suffice. This is the allegation and the evidence that the appellant needs to meet. The appellant may meet it by asking how the evidence shows that it could have known these facts or why they indicate knowledge of connection; and if the evidence tendered by HMRC does not provide an answer to that question, the tribunal may draw its own conclusions. Witness statements have been served. The appellant knows in sufficient detail what will be said in evidence in relation to these matters.

25 (iii) Allegations of dishonesty against the appellant.

49. The appellant complains that it is unclear what allegations of dishonesty are made against it.

30 50. In this context Mr Scorey argued that an allegation of knowledge of connection to fraud might or might not amount to an allegation of dishonesty. If it was alleged that the movement of goods along a chain was part of a conspiracy or contrivance, then an allegation of knowledge of that fact carried with it an allegation of dishonesty; if, on the other hand, it was alleged that there was a fraud at the start of a chain of supply, and that the appellant knew that the goods purchased had passed through a chain of independent intermediaries, the allegation of knowledge of the connection to the fraud did not carry an allegation of dishonesty despite the fact that as a result the appellant might be described as a participant in fraud.

40 51. In response Mr Kerr said that all HMRC needed to allege was knowledge of connection to fraud. No allegation of dishonesty was needed. To the extent that an averment of knowledge meant alleging dishonesty, then dishonesty was alleged; to the extent that an averment of knowledge was not allegation of dishonesty, dishonesty was not alleged. He says that HMRC were not suggesting that the appellant was a co-

conspirator in a fraud, but to the extent that knowledge of connection entailed dishonesty, dishonesty was alleged.

52. In *Megtian Ltd (in administration) v HMRC* [2010] EWHC 18 (Ch) Briggs J says at [41]:

5 "A person who knows that the transaction in which he participates is connected with fraudulent evasion is a participant in that fraud. That person has a dishonest state of mind."

53. That however was said in the context of a primary case that the company in that appeal was "the knowing participant in a contrived, preordained series of transactions designed to achieve the evasion and tax", and it may have been that Briggs J had that context in mind.

54. In the statement of case HMRC does not allege a contrived or preordained series of transactions designed to evade tax, but instead circumstances from which it may be inferred that the appellant knew that the supplies it received were connected with fraud. It seems to me that if this is not an allegation of dishonesty it is something very close to it.

55. But whatever it is, it is pleaded clearly and the allegation as to the facts which are made against the appellant and the particulars of what it is said it knew are set out. The statement of case to my mind makes clear the case which the appellant has to meet and the evidence on which it is based: it cannot be said to have been treated unfairly.

(i) Due diligence

56. In connection with their allegation that the Appellant should have known of a connection to fraud, HMRC allege that the Appellant did not make the checks on its suppliers and which a reasonable trader would have made. They add that "if it had done so properly it would or should have reached the conclusion that...the deals...were connected to fraud" (paras 65 statement of case). (I note that similar allegations are also said to be relevant to actual knowledge of connection to fraud, but that the Appellant's complaint arises in relation to the allegation that the Appellant should have known.)

57. Vale Europe ask that HMRC indicate what further steps it should have carried out and what it would have found out if it had done so. HMRC reply that it is not part of their case with regard to any step that it would have alerted the Appellant to fraud.

58. In each part of the statement of case where the allegation is made that the Appellant should have made proper checks and enquiries there follows a list of questions about the supplier, the metal, and the circumstances of the supply. It is clear to me that HMRC are in these sections alleging that the only reasonable explanation of the circumstances set out in them (which are alleged to be within the knowledge of Vale Europe) is connection to fraud, not that investigation of the circumstances would

have led to further knowledge whose only explanation would have been connection to fraud.

59. The Appellant is therefore in a position to rebut the allegation and the inference by showing either that it is not shown that it did not know, or should not have known, of these matters, or that there were other reasonable explanations for the list of questions, or by showing that it had additional knowledge which showed that the only reasonable explanation for the circumstances was not connection to fraud. HMRC's case is clear.

60. The Appellant complains that an exhaustive list of questions has not been provided. I do not think that is necessary. Witness statements have been served and the general nature of the respondents' argument is in these lists of questions.

*Other matters*

(i) Paragraphs 25 and 55 of the statement of case

61. In paragraph 25 of the statement of case HMRC say that they were told by the managing director of Opera that it was purchasing from four suppliers. In paragraph 55 (ii) it is said that the metal came from two other companies in Russia, and that (iv) it is said that the appellant knew details of the supply chains. Paragraph 25 is in the context of the allegation that the appellant's supplies were connected to evasion of VAT; paragraph 55 in the context of the allegation that the appellant knew that its supplies from Opera were so connected.

62. HMRC should make clear whether the detail in these paragraphs is intended to support only one or both allegations.

(ii) Paragraph 24 clarification

63. Mr Kerr explained that the VAT which it was said Opera had not accounted for in relation to the supplies to the appellant in 05/08 was the VAT on the April supplies listed in paragraph 20 of the statement of case.

64. He also explained that paragraph 24 (i) (b) meant that in 02/08 Opera had accounted for VAT on its sales after taking credit for input tax, and that there was in (c) evidence of the VAT loss connected with that input tax which could be fraudulent.

(iii) Redaction.

65. The appellant sought the redaction of parts of HMRC's witness statements on the grounds that they contained impermissible evidence of opinion and irrelevancies. I agree that some parts of these statements show these characteristics.

66. I have little sympathy with this request. The tribunal is well-equipped to differentiate between relevant and irrelevant evidence and evidence of fact and statements of opinion. It does so in almost every appeal and particularly in cases where the parties are not legally represented.

67. I accept that the excision of irrelevant evidence could reduce the time and the cost of the hearing and for that reason should be encouraged. However I was told that the parties were having discussions about these issues and that the matter could sensibly be left to the hearing.

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## DIRECTIONS

68. I direct:

1. that HMRC shall serve a short note summarising the legal basis for its argument in relation to fraud in general (not part of a genuine commercial market) within six weeks of the release of these directions;

2. that if HMRC intend to argue that in determining whether a company should have known something, facts, all of which were not known by one person but each of which was known by at least one person whose knowledge could be attributed to the company, may all be treated as known by the company, they shall serve notice that they intend so to argue within 4 weeks of the release of these directions;

3. that within 21 days HMRC serve notice indicating whether they rely on the allegations that certain companies were “vehicles for fraud” in relation to proof of VAT fraud, connection to such fraud, or knowledge or means of knowledge;

4. that HMRC should make clear which allegations the detail in paragraphs 25 and 55 of the statement of case is intended to support by serving notice thereof within 21 days of the release of these directions (see paragraph [62] above).

5. for the avoidance of doubt, that HMRC shall be treated as if (i) by “fraud in general” is meant that a purchase is connected to fraud in general if it was connected to “deals which were not part of a genuine commercial market”, (ii) by “vehicle for fraud” is meant a company trading for fraudulent rather than for genuine commercial purposes, and (iii) they allege that for the purposes of knowledge and means of knowledge, the knowledge of only those individuals who were responsible for the purchases and their authorisation (for making the contract, authorising it, authorising payment and vetting) is to be attributed to the company.

69. I make no other directions. In particular I make no direction in relation to costs.

70. 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.

**CHARLES HELLIER  
TRIBUNAL JUDGE**

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**RELEASE DATE: 13 November 2014**