



TC04716

Appeal number: TC/2015/03767

*VAT – default surcharge that reasonable excuse insufficiency of funds –
appeal dismissed*

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

	MANNA CHRISTIAN CENTRE LTD	Appellant
	- and -	
	HER MAJESTY'S REVENUE AND CUSTOMS	Respondents

TRIBUNAL: JUDGE DR K KHAN

The tribunal determined the appeal on 6 October 2015 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 15 June 2015 and HMRC's Statement of Case 20 July 2015.

DECISION

Introduction

- 5 1. This is an appeal against a Default Surcharge for the period 01/15 in the amount of £261.47 being 10% of the tax due which is £2614.75. The surcharge was levied when the payment in respect of the period was made after the due date of 7 March 2015. The VAT return was received on 5 March 2015 which was in time but the payment was received on 12 March 2015, which was five
- 10 days after the extended due date.

Background

- (1) The Appellant paid from 01/14 onwards via the Faster Payments
- 15 Service (FPS). The Appellant is a company .limited by guarantee and is in the business of selling Christian books, Bibles, newspapers and stationery.

The Appellant's submissions

(1) They say that they have always made payments on time and were notified by HMRC that if payments were made late they would incur surcharges of 10%. They say they had a shortage of funds and all invoices for the quarter period were not been paid.

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(2) HMRC rejected the Appellant's appeal on the grounds of an insufficiency of funds. The Appellants say they are a charity and are struggling to operate in the commercial world with increased business expenditure and diminishing sales. They incurred a cash flow problem in meeting their tax liability.

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HMRC'S submission

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(1) HMRC says that the payment was made late and a liability to a VAT surcharge was incurred pursuant to VATA 1994 S.59. This

liability is explained on the reverse of each notice which details how surcharges are calculated and the percentages used in determining any financial surcharge in accordance with Section 59(5) VATA 1994.

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(2) They say the surcharges were correctly imposed in accordance with the law and properly calculated. The Appellants were aware of the fact that a late payment would mean a surcharge at the rate of 10%. The surcharge was levied because full payment of the VAT due did not reach HMRC by the due date.

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In conclusion

(1) There is no reasonable excuse for the late payment in this case. A trader who leaves payment of VAT liabilities until the last possible moment must accept the consequences of any unanticipated delay.

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While the Tribunal sympathises with the charity, who from the figures presented, appear to have had a downturn in sales equal to approximately 1% and 3% in the t last two quarter periods. It would appear that their sales are cyclical and the business appears to have a seasonal flavour. In such a case one would have anticipated that the Appellants would have put aside funds to pay the VAT charges. This Default Surcharge will not have a significant impact on the business but if there is no forward planning then further Default Surcharges will have an impact on the company's cash flow.

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(2) The appeal is dismissed and the penalty is upheld for the period 01/15.

2. This document contains full findings of facts and reasons for the

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Decision. Any party dissatisfied with the decision has a right to appeal 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 fifty six days after this decision is sent to that party. The parties are referred to “Guideline to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

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TRIBUNAL JUDGE K KHAN
RELEASE DATE: 17 NOVEMBER 2015

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