



**TC04846**

**Appeal number: TC/2014/03441**

***PROCEDURE—application to bar HMRC from further part in proceedings – alternative application for a limited bar – application for "unless" order – Rules 7(2)(c) - (d) and 8 The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009-***

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**PGPH LIMITED**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE GUY BRANNAN**

**Sitting in public at The Royal Courts of Justice, Strand, London on 15 January 2016**

**Marc Glover, instructed by Neumans LLP, Solicitors, for the Appellant**

**Peter Mantle, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents**

## DECISION

1. This is a decision on an application by the Appellant, *inter alia*, to bar HMRC from taking further part in this appeal under Rule 8 The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ("the Rules"). The Appellant makes alternative subsidiary applications (in particular, for a limited barring order or an "unless" order), as does HMRC.

### Background

2. By decision letters dated 11 June 2014 and 17 September 2014, HMRC informed the Appellant of its decision to disallow input tax claimed in the Appellant's VAT periods 02/14 and 05/14 in the amounts of £20,227.09 and £20,354.21 respectively. Further decision letters were issued on 10 April 2015 in respect of periods 08/14 and 11/14. Notices of Appeal were lodged with the Tribunal on 23 June 2014 (periods 02/14 and 05/14) and I understand that Notices of Appeal have also been filed in respect of two other periods.

3. The Grounds of Appeal (contained in a letter from the Appellant dated 20 June 2014) were:

"We completely disagree and wish to challenge Mr Moore's decision. We have followed the principles of VAT, we have been charged VAT which has been paid and we respectively [sic] appeal the decision not to make the repayment on the grounds that we are clearly entitled to make a re-claim as we are clearly registered and comply with the requirements."

4. It should be noted at this stage that when these unspecific Grounds of Appeal were filed, the Appellant was unrepresented.

5. HMRC served a Statement of Case on 2 February 2015.

6. On 13 March 2015, HMRC served a List of Documents.

7. On 13 April 2015 this Tribunal issued a set of standard directions dealing with such matters as, for example, lists of documents, witness statements, listing information, bundles, skeleton arguments, authorities bundles, delivery of bundles etc.

8. On 10 April 2015 HMRC wrote to the Appellant. First, the letter noted that the Appellant had failed to provide information and documents as previously requested stating that the Appellant had made it clear that it was "unwilling to do so." Secondly, the letter informed the Appellant that, although the decision to reduce the 02/14 and 05/14 repayment claims to nil remained unchanged, the grounds for the decision had changed.

9. There was no dispute before me that HMRC was entitled to change the grounds for its decisions if it considered it appropriate.

10. Essentially, the new ground for disallowing input tax was stated to be the application of the option to tax under an anti-avoidance measure contained in paragraphs 12 – 17 Schedule 10 Value Added Tax Act 1994 ("VATA 1994"). The letter set out a description of these provisions. The letter then stated that, in HMRC's view, the Appellant's option to tax on a property, 13 Crescent Place, "should be 'dis-applied' as the circumstances surrounding the grant to Smart Medical Clinics Ltd are caught by the above anti-avoidance test. The 'disapplication of the option will mean that [the Appellant]'s supplies of 13 Crescent Place will become exempt and the company cannot recover input tax attributable to the property."

11. On 16 April 2015, HMRC sent an e-mail to the Tribunal informing the Tribunal of the change in HMRC's case. The letter stated:

"Due to the amendments to the reasons behind the decisions, the Respondents make an application for permission from the Tribunal to amend their Statement of Case in the present appeal.

The Respondents also Apply for the Directions issued on 13 April 2015 to be set aside and New Directions to be issued."

12. The Appellant then instructed Neumans as its solicitors to act in the appeal. Neumans wrote to HMRC on 5 May 2015, noting the contents of the letter of 10 April 2015 and asking whether the original grounds for the decision had been abandoned. It requested a draft amended statement of case to be sent to them for consideration.

13. HMRC replied on 7 May 2015, referring to their letter to the Tribunal on 16 April 2015 and noted that HMRC were still awaiting a response. The letter continued:

"If permission is granted for the Respondents to amend their Statement of Case, I will of course then do so and provide you and the Tribunal Service with a copy. I do not currently hold a draft amended Statement of Case to provide you."

14. On 13 May 2015 Neumans wrote to the Tribunal objecting to HMRC's application to have the 13 April 2015 standard directions set aside and for permission to amend their statement of case. Neumans gave as the reason for their objection that:

"HMRC have failed to provide a draft statement of case for the appellant's consideration.

The appellant cannot properly consider any application to the tribunal for permission to amend the statement of case without having first seen a draft statement of case."

15. On 19 June 2015 Judge Dean issued the following directions:

"1. Within 21 days of release of this Direction HMRC must serve a draft Amended Statement of Case together with revised draft directions.

2. No later than 21 days after receipt of HMRC's draft Amended Statement of Case and draft directions the Appellant must confirm if it

objects to the Amended Statement of Case or directions and if so details of those objections.

5 3. No later than 21 days after receipt of HMRC's draft Amended Statement of Case and draft directions the Appellant must confirm to HMRC and the Tribunal whether it intends to appeal HMRC's decisions in respect of periods 08/14, 11/14 and 02/15 and if so whether an application will be made to consolidate the new matters with this appeal."

10 16. As regards paragraph 3. of the directions, Notices of Appeal had, in fact, already been filed in respect of periods 08/14 and 11/14 but not in respect of 02/15.

17. Thus, HMRC was required to serve a draft Amended Statement of Case and revised draft directions by 10 July 2015.

18. On 9 July 2015 HMRC applied to the Tribunal for a direction in the following terms:

15 "1. That the current direction that an amended Statement of Case be served by 10 July 2015 be suspended.

2. That, within 28 days, the Appellant provide Amended Grounds of Appeal in response to the correspondence from [HMRC] dated 10 April 2015.

20 3 That, within 28 days thereafter, [HMRC] provide an amended Statement of Case."

19. The reason for the application was stated to be as follows:

25 "The reasons for the decision that the Appellant seeks to contest by way of this appeal have changed but this development has not been taken account of in the Appellant's Grounds of Appeal, which address the original reasons for the decision. Accordingly, it is now not clear on what grounds the Appellant seeks to challenge [HMRC]'s decision."

30 20. Neumans objected to HMRC's application stating that it was, effectively, an appeal against Judge Dean's earlier directions dated 19 June 2015. The objection also noted that it was not clear whether the original grounds on which HMRC issued its decision letters were being maintained. On this point, Mr Mantle confirmed before me that the original grounds were no longer being maintained.

21. On 1 September 2015 the Tribunal replied in a letter to Newmans, (copied to HMRC) in the following terms:

35 "The papers have been referred to a Tribunal judge. He has noted that the Directions of Judge Dean issued on 19 June 2015 (the "Directions") made it clear that the next step in these proceedings is for the Respondents to serve a draft amended statement of case (and draft proposed directions). He sees no reason to change the effect of the Directions by requiring the Appellant first to serve amended grounds  
40 of appeal.

HMRC must comply with paragraph 1 of the Directions within 14 days of this letter. Thereafter the parties must comply with paragraphs 2 and 3 of the Directions within the time limits specified in those paragraphs."

5 22. Pausing there, it seems to me that the letter of 1 September 2015 was clear. It repeated Judge Dean's directions that the sequence of events was to be that HMRC should serve an amended draft Statement of Case and amended draft directions and, then, the Appellant should serve amended grounds of appeal.

10 23. HMRC did not comply with these directions. First, the draft Amended Statement of Case was served by HMRC almost one hour late at 17:51 pm on 15 September 2015. Secondly, instead of filing amended draft directions, on 9 October 2015, approximately 3 weeks after the deadline given in the letter of 1 September 2015, HMRC again applied to the Tribunal in almost identical terms to its 9 July application, which had already been rejected by the Tribunal.

15 24. Mr Mantle, for HMRC, regretted the minor delay in submission of the draft Amended Statement of Case and the failure to comply with the directions in respect of the draft proposed directions.

20 25. Mr Mantle, in my view, was unable to give me any satisfactory explanation as to why HMRC repeated an application which had already been rejected. Mr Mantle suggested that Judge Dean must have contemplated that the "revised draft directions" would contain rather more than simply an update to the standard form directions that had previously been issued. I see no basis, however, for that submission. In my view, Judge Dean was looking for updated standard form directions, no doubt with any minor amendments made to reflect developments since the original April directions.  
25 Judge Dean specifically used the word "revised", obviously referring to the earlier standard directions.

26. I regard HMRC's conduct in this respect to have fallen short of that expected from a government department.

30 27. Before HMRC served its 9 October 2015 application, the Appellant applied on 6 October 2015 for the Respondent's Statement of Case "to be struck out and the appeal allowed." In the alternative, the Appellant asked for an order that:

35 "Unless the Respondent complies with the Tribunal's first Direction dated 19 June 2015 by serving (i) a fully pleaded draft Amended Statement of Case and (ii) revised draft directions, by 4 pm on on [insert date], its Statement of Case be struck out and the appeal allowed."

28. The Appellant replied to HMRC's 9 October 2015 application on 11 January 2016.

## The Applications

### *Barring HMRC from taking any further part in proceedings*

29. The Appellant's application on 6 October 2015 asked the Tribunal to strike out HMRC's Statement of Case and to allow the appeal. The Rules do not permit me to  
5 strike out HMRC's case or simply to allow the appeal. However, Mr Glover's skeleton argument made it clear, however, that he was seeking an order under Rule 7 (2) (c) and Rule 8.

30. So far as relevant, Rule 7 provides:

10 "(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied;
- (c) exercising its power under rule 8 (striking out a party's case);
- 15 (d) restricting a party's participation in proceedings...."

31. Rule 8 provides, so far as material:

"(3) The Tribunal may strike out the whole or a part of the proceedings if—

20 (a) the appellant has failed to comply with a direction which stated that failure by the appellant to comply with the direction could lead to the striking out of the proceedings or part of them;

(b) the appellant has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly; or

25 (c) the Tribunal considers there is no reasonable prospect of the appellant's case, or part of it, succeeding.

30 (4) The Tribunal may not strike out the whole or a part of the proceedings under paragraphs (2) or (3)(b) or (c) without first giving the appellant an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings, or part of them, have been struck out under paragraphs (1) or (3)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.

35 (6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date that the Tribunal sent notification of the striking out to the appellant.

40 (7) This rule applies to a respondent as it applies to an appellant except that— (a) a reference to the striking out of the proceedings must be read as a reference to the barring of the respondent from taking further part in the proceedings; and (b) a reference to an application for the reinstatement of proceedings which have been struck out must be read

as a reference to an application for the lifting of the bar on the respondent taking further part in the proceedings.

5 (8) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submissions made by that respondent, and may summarily determine any or all issues against that respondent."

32. Mr Glover's primary submission before me was that HMRC's conduct had been so poor that I should conclude that "enough was enough" and that I should exercise the ultimate sanction of barring HMRC from taking any further part in these proceedings. The Appellant had suffered prejudice in that its claim for a VAT repayment had been delayed. The Appellant was a small business and could not afford such cash flow delays. In addition, it had been put to the unnecessary expense of contesting HMRC's unmeritorious applications.

15 33. I have already indicated that HMRC's behaviour has fallen short of that to be expected from a government department. After receiving the Tribunal's reaffirmation on 1 September 2015 of Judge Dean's earlier directions, HMRC should have complied with those directions. Its repetitive application on 9 October was unreasonable – it had already made that application to the Tribunal and been rebuffed. HMRC made no attempt to appeal either Judge Dean's directions or those of 1 September 2015.

34. However, I am clear that, although HMRC's conduct has been unsatisfactory, it is very far from the sort of conduct which should prompt a barring order under Rule 8. In *HMRC v BPP Holdings Ltd* [2014] UKUT 496 (TCC) Judge Bishopp referred to a barring order as a "last resort" [53]. Rule 8, so far as is relevant, only permits me to make a barring order where HMRC has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the proceedings fairly and justly. That is a very high hurdle indeed and one which will only be reached in a very small number of cases. An example of such a case was *Nutro UK Ltd v Revenue & Customs* [2014] UKFTT 971 (TC) where Judge Berner struck out an appellant who had deliberately misled the Tribunal.

35. As Judge Bishopp noted in *BPP* at [59] – [60]:

35 "59. Against that background I return to the question now before me, namely whether the barring order for which Judge Hellier's direction potentially provided should be implemented. In my judgment it is clear that it should not. There has been prejudice to BPP, in that it has been put to expense in securing the information it required, and has suffered a significant, unnecessary and unwarranted delay in the process. There has been little, and in most respects no, explanation of the failure by HMRC to do what was required of them. It follows that HMRC attract little sympathy.

40 60. However, the consequence of my imposing a barring order will be that the F-tT's decision on the merits of the appeal, whatever it might be, will be unsatisfactory, in that it may hand an unwarranted windfall to BPP but perhaps more importantly will not adequately determine

5                   whether or not its supplies are zero-rated. The consequence of my refusal of a barring order, on the other hand, is that the F-tT will be able to reach a conclusion after full argument, and will be able to deal with the case fairly and justly, and thus in accordance with the overriding objective."

36. Judge Bishopp noted [61] that there may be some exceptional cases in which a barring order could be made even though the overriding objective could still be achieved. The case before him was not one of those cases.

10 37. In this case, as in *BPP*, HMRC's conduct has caused delay and expense. It is, however, plainly not so egregious that it should be barred from participating in the proceedings. It certainly cannot outweigh the desirability of the F-tT determining the appeal after hearing full argument on whether the Appellant's claim for input tax has merit. I do not see how it can be said that this appeal can no longer be dealt with fairly and justly.

15 38. On the contrary, it seems to me that the Appellant's application for a barring order, which was the Appellant's primary application, is entirely misguided and has played its part in increasing the delay experienced in the handling of this appeal. It is perfectly possible to deal with this case fairly and justly, albeit that the hearing of this appeal has been delayed for no good reason.

20 39. Subject to the question whether the draft Amended Statement of Case was defective (which seemed to be very much a subsidiary point in the Appellant's original application), Mr Glover's main complaint concerned the failure to carry out the Tribunal's directions issued on 1 September 2015 that HMRC provide revised draft directions. In my view it would have been open to the Appellant, at any stage, to have approached the Tribunal to request directions or indeed to put forward the Appellant's own draft directions. It did not do so and, in my view, the Appellant has overplayed its hand. The Appellant applied for the "nuclear option" of a barring order when lesser sanctions or remedies would have been more appropriate.

30 40. Finally on this point, I should make it clear that, notwithstanding Mr Glover's observations to the contrary, I do not see HMRC's application of 9 July 2015 as unreasonable or abusive. HMRC applied for a suspension of Judge Dean's directions, which suspension would have included the various time limits. Whilst I do not regard the July application as unreasonable, HMRC's failure to comply with the 1 September letter was not acceptable.

35 41. I therefore refuse the application to impose sanctions on HMRC under Rule 7 (2) (c) and Rule 8.

*Draft Amended Statement of Case and limited barring order*

42. The Appellant's 6 October 2015 application complained that HMRC's draft Amended Statement of Case was not properly pleaded in a number of respects.



43. Mr Glover, in the alternative, applied for a limited barring order. This argument, as far as I can see, was first put forward in Mr Glover's skeleton argument – it was not part of the original application made on 6 October 2015. Essentially, Mr Glover's complaint was that HMRC's draft Amended Statement of Case was inadequate in the  
5 in a number of respects (see below). Mr Glover therefore submitted that HMRC's participation in proceedings should be restricted to the facts and matters pleaded in the draft Amended Statement of Case.

44. First, at paragraph 42, the draft states: "The evidence includes, but is not limited to...." Mr Glover argued that HMRC should not be allowed to conceal evidence on  
10 which it relied and that HMRC should "put its cards on the table."

45. Secondly, Mr Glover submitted that the core factual premises for HMRC's decisions were unclear and wanting proper particulars. Mr Glover gave two examples: "the reference to "verbal statements" and identified parts of "a letter dated 10 December 2014".

15 46. Thirdly Mr Glover argued that some pleaded points were not properly supported. For example, the draft contained a statement "a PGPH cashbook showing loans made by Mr Gerard Barnes (a Director of Smart Medical) were used to directly fund the refurbishment" demands further particulars such as: which cashbook; what loans; what date(s); how was it claimed that they "directly funded"?

20 47. Under Rule 7 (2) (d) this Tribunal can "restrict a party's participation in proceedings." This seems to be an independent power which is different from the barring powers contained in Rule 8. Rule 7 (2) (c) expressly refers to the strikeout powers under Rule 8 but Rule 7 (2) (d) does not.

48. In *Ian Elder v Revenue & Customs* [2014] UKFTT 728 (TC) Judge Cannan  
25 considered Rule 7(2)(d) as follows:

"82. It is not clear and I did not have any submissions as to whether Rule 7(2)(d) encompasses a power to effectively strike out a case, which is what barring the respondents from taking further part in the proceedings would involve. I would be inclined to the view that it  
30 does not because the grounds for striking out are comprehensively set out in Rule 8. In particular Rule 8(1) provides for automatic striking out for breach of a direction which stated that the appeal would be struck out in the event of non-compliance. Similarly, Rule 8(3)(a) provides for discretionary striking out for failure to comply with a  
35 direction which stated that non-compliance could lead to the striking out of the proceedings. There is no equivalent in the Tribunal Rules to CPR 3.4(2) which gives a court discretionary power to strike out a claim where there has been failure to comply with a rule.

83. Rule 7(2)(d) may be directed at some more limited form of  
40 restriction on participation in the proceedings falling short of striking out. Alternatively, at some exceptional circumstances which do not for some reason fall within the ambit of Rule 8. See for example the decision of Morgan J sitting in the Upper Tribunal in *Foulser v*

49. The purpose of a Statement of Case and an Appellant's Grounds of Appeal is to enable the key issues between the parties to be properly identified. This assists not only in focusing the legal arguments but also in assembling the appropriate evidence. Rule 25(1)(c) merely requires of a Statement of Case that it states the relevant legislative provision and that it sets out 'the respondent's position in relation to the case'. In my view, the draft Amended Statement of Case fulfils these very limited requirements. Whilst it is true that a Statement of Case does not require HMRC to plead all the evidence upon which it intends to rely, it should plead the main primary facts upon which it bases its decision(s). This, it seems to me, is a fulfilment of Rule 2 (4) (a) to assist the Tribunal to further the overriding objective of dealing with cases fairly and justly (as Judge Bishopp observed in *BPP* [49]).

50. There are a number of authorities on Statements of Case and pleadings more generally which were not cited to me but which can usefully be borne in mind. First, Rose J in *GUS Merchandise Corp v C & E Comrs* [1992] STC 776 observed at 780:

"The whole purpose of the statements of case and the list of documents, submitted [counsel for the taxpayer] was to enable the company to know the way in which the commissioners put their case. That is undoubtedly right".

51. It will be noted that Rose J also saw other documents e.g. the list of documents as playing a role in enabling a taxpayer to understand the case which HMRC were putting forward. In the same way, in *HMRC v Denny*[2013] UKFTT 309 (TC) Judge Hellier said [230]:

"Fairness to the taxpayer in a case like this requires that [the taxpayer] is given good notice of what case he has to meet. That can be done formally, through a statement of case, or through witness statements or well indexed bundles of documents depending on the circumstances."

52. Finally, I should refer to the comments of Judge Tildesley in *HMRC v Libra Tech Ltd* [2013] UKFTT 180 [50]:

"[A] statement of case is of necessity a summary of the evidence and sets out the essential propositions upon which HMRC relies to establish its case....HMRC is entitled to expand on its case by the exchange of witness statements and opening submissions."

What is important is that the pleadings should make clear the general nature of the case of the pleader..... [E]xcessive particulars can achieve directly the opposite result from that which is intended. They can obscure the issues rather than providing clarification. In addition, after disclosure and the exchange of witness statements pleadings frequently become of only historic interest." Lord Woolf MR in *McPhilemy v. Times Newspapers Ltd* [1999] 3 All ER 775 at 792-3

53. I should add that it is, of course, feature of tax litigation is that the underlying facts are usually better known to the Appellant than to HMRC. Nonetheless, a

taxpayer is entitled to a succinct statement of the facts on which HMRC bases their case – the facts are an essential part of HMRC's reasoning process.

54. In this case, HMRC summarise in paragraph 40 of the draft Amended Statement of Case the legal issues in question. Mr Glover did not suggest that these issues were  
5 incorrect or inappropriate. In paragraph 42 HMRC summarise the facts and documents on which they rely in relation to the three main legal issues:

- (1) the grantor's expectations that a capital item was to be created at the time of the grant;
- (2) a connection between the undertakings;
- 10 (3) the purposes of the occupier of the property.

55. In my view, these paragraphs, although brief, are sufficient to inform the Appellant of the case which it faces and the main facts on which HMRC rely. Accordingly, I do not consider that HMRC's Statement of Case is inadequate. It follows, therefore, that I refuse Mr Glover's application for a limited barring order  
15 Rule 7(2)(d).

56. Even if I had concluded that HMRC's draft Amended Statement of Case was defective, the appropriate remedy would be for the Tribunal to direct HMRC to amplify the facts stated in their Statement of Case. The overriding objective is not served by putting HMRC in a factual straitjacket which, as cases cited above indicate,  
20 might fail to take account of other facts and matters disclosed in witness statements, correspondence, bundles and lists of documents – all of which can serve to inform the Appellant in increasing detail of the case against it.

#### *Unless order*

57. Mr Glover, in the alternative, asked for an "unless" direction specifying that  
25 unless HMRC complied with Judge Dean's directions of 19 June 2015, repeated on 1 September 2015, it would be barred from further participation in the appeal under Rule 8.

58. As I have noted, Mr Glover's main complaint was the failure by HMRC to serve draft amended directions. It seems to me that this problem can be remedied by a  
30 further direction from this Tribunal that these draft directions should now be issued without further delay. This will be the third time that this direction has been made and HMRC should by now fully appreciate that the Tribunal will not regard another failure to comply with the direction with equanimity. On this occasion, however, I do not think it is necessary to insist on an "unless" direction.

#### *HMRC's 9 October 2015 application*

59. Although not part of HMRC's 9 October 2015 application, Mr Mantle applied that the draft Amended Statement of Case should be treated as having been served in compliance with Judge Dean's directions and that HMRC should be allowed to amend its Statement of Case in the form of the amended draft.

60. Having taken the view that the draft is not defective, I regard the draft Amended Statement of Case as having been duly served in compliance with Judge Dean's directions, as extended on 1 September 2015. I regards the fact that the draft was served almost an hour late as an unfortunate but minor infringement. I further give  
5 permission that the Statement of Case be amended in the form of the Draft Amended Statement of Case.

61. Mr Mantle submitted that the Appellant should be directed either to serve Amended Grounds of Appeal or a Response.

62. Mr Mantle repeated HMRC's submission that the revised draft directions should only be served after the Appellant had served its Amended Grounds of Appeal or a Reply to HMRC's Amended Statement of Case. I was not convinced by Mr Mantle's arguments on this point and see no reason why paragraph 1 of Judge Dean's directions of 19 June 2015 (as repeated by the Tribunal on 1 September 2015) should be varied in this regard. HMRC must now comply with those directions. Plainly, if the  
10 Appellant's position, as indicated in a Reply to HMRC's Amended Statement of Case, necessitates some change in these fairly standard directions, HMRC is free to make the necessary subsequent application.  
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#### *Directions*

63. There has been approximately a 6 month delay in this matter since Judge Dean's directions. As I have indicated, part of this delay was caused, in part, by HMRC's failure properly to comply with those directions. Part of the delay was also caused, in my view, by the unrealistic application made by the Appellant on 6 October 2015 effectively to bar HMRC from further participation in the appeal.  
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64. It seems to me that directions need now to be issued in order to progress this matter so that no further unnecessary delay arises. I wish to make it clear to the parties that the Tribunal will expect time limits to be strictly adhered to and that any attempt to use procedural matters to further delay these appeals coming to a hearing or to obtain a tactical advantage will not be tolerated. I hope that the parties will attempt as far as possible to make procedural progress in this appeal by discussion and agreement. I do not understand why in the context of tax litigation – or any litigation – efficient progress cannot be achieved without resort to repeated contested applications and procedural wrangling.  
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65. Accordingly, I have therefore today released directions which:

- (1) permit HMRC to amend its Statement of Case in the form of the draft Amended Statement of Case;  
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- (2) require HMRC to serve revised draft directions as directed by Judge Dean;
- (3) then require the Appellant to serve a Reply to the amended Statement of Case; and

(4) require the Appellant to indicate whether it intends to apply that the appeals in respect of 08/14 and 11/14 (and any other period or periods) be consolidated with these appeals.

5 66. 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)”  
10 which accompanies and forms part of this decision notice.

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**GUY BRANNAN**

**TRIBUNAL JUDGE**

**RELEASE DATE: 27 JANUARY 2016**

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