[2016] UKFTT 0169 (TC)

TC 04959

Appeal number: TC/2014/04815
TC/014/05277

EXCISE DUTY – penalty – whether "special circumstances" – meaning of "ability to pay" – whether HMRC's decision "flawed" – no – appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

MEDWAY BOND & STORAGE COMPANY LIMITED **Appellants**
BRAMLEY FERRY SUPPLIES LIMITED

- and -

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

TRIBUNAL: JUDGE JONATHAN RICHARDS
ROGER FREESTON

Sitting in public at The Royal Courts of Justice, Strand, London on 24 February 2016

Kara Cann, instructed by Rainer Hughes for the Appellant

Will Hays, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

1. This is an appeal against a penalty imposed on the appellants under paragraph 4 of Schedule 41 of the Finance Act 2008 ("Schedule 41") for the handling of excise goods which are subject to unpaid excise duty. The sole ground of appeal relates to the question of whether the penalty should be reduced owing to the presence of "special circumstances" within the meaning of paragraph 14 of Schedule 41.

Background and agreed facts

2. None of the facts set out at [3] to [9] was in dispute.

3. The first appellant ("Medway") is an "authorised warehousekeeper" under The Warehousekeepers and Owners of Warehoused Goods Regulations 1999 ("WOWGR"). Medway operates a bonded warehouse. The second appellant ("Bramley") holds an account at Medway's bonded warehouse.

4. On 22 October 2012, Medway took into its warehouse two shipments of alcohol and allocated that alcohol to Bramley's account with Medway. However, Bramley did not actually own the alcohol in question which was instead owned by ASB Supplies Limited ("ASB"). Since ASB was not a "registered owner" authorised under WOWGR to own excise goods, the alcohol could only be kept in Medway's warehouse for an "initial period" of 72 hours without payment of excise duty. This 72 hour period expired on 25 October 2012 and the duty was not paid by the time it expired. As a consequence, an excise duty point was, by virtue of Regulation 20(3) of WOWGR, triggered at the time when the goods were originally deposited into the warehouse (i.e. 22 October 2012).

5. Form "W5" remittance advice notes were submitted electronically on 30 October 2012. Payment for the excise duty on one shipment was made on 29 October 2012. Payment for the excise duty on the other shipment was made on 30 October 2012.

6. Therefore, the excise duty was paid after the due date. Accordingly, HMRC decided that both Bramley and Medway were liable to a penalty under paragraph 4 of Schedule 41 for handling goods that were subject to unpaid excise duty. A penalty was, accordingly, levied but, following an HMRC review, it was determined that the penalty charged was too low. On 22 April 2014, HMRC wrote to Medway and Bramley to explain the increased penalty that they proposed to charge. That penalty was calculated on the following basis:

> (1) that the behaviour leading to the penalty was "deliberate" and the disclosure of the wrongdoing was "prompted" so that the penalty range was between 35% to 70% of the "potential lost revenue";
>
> (2) that both Bramley and Medway should be awarded the greatest possible reduction for disclosure and co-operation with HMRC's enquiry so that the

actual penalty charged should be 35% of "potential lost revenue", right at the bottom of the possible range;

(3) that there were no special circumstances that justified a further reduction in the penalty;

(4) that accordingly the amount of penalty payable by each of Medway and Bramley was 35% of the "potential lost revenue" (which HMRC calculated at £45,674.13) resulting in each of Medway and Bramley being liable to a penalty due under Schedule 41 of £ 15,985.94.

7. On 6 May 2014, Officer Cousins made formal penalty assessments in the above amount on both Medway and Bramley.

8. Officer Allan Donnachie of HMRC performed a review of Officer Cousins's decision to issue the (revised) penalty assessments. In a letter of 6 August 2014, he upheld Officer Cousins's decision.

9. Shortly prior to the hearing, HMRC realised that they had made small errors in the calculation of the "potential lost revenue" and that this should be calculated as £45,651.31 with the result that the actual penalties chargeable on Bramley and Medway should have been assessed at £15,978.08 instead.

Matters in dispute

10. The appellants accept that, subject to the question of "special circumstances", they are both subject to the penalty set out at [9]. However, they argue that HMRC's decision on "special circumstances" is flawed so that, pursuant to paragraph 19(3) of Schedule 41, the Tribunal is entitled to substitute its own conclusion on "special circumstances" for that of HMRC.

11. Very broadly, the appellants argue that the "special circumstances" in question relate to the fact that when the 72 hour period referred to at [4] expired, on 25 October 2012, Bramley had received sufficient funds from its own client to pay the excise duty due and stood ready and willing to pay that amount over to HMRC. Medway was not able to make payment on the due date, however, because of daily transfer limits that Medway's bank had imposed. In recognition of these factors, and the fact that payment was in any event made a matter of days after the excise duty point was triggered, the appellants ask the Tribunal to reduce the penalty either to nil or to such other sum as the Tribunal considers appropriate.

12. The appellants accept that, in order to succeed in this argument, they first need to establish that HMRC's position on "special circumstances" was flawed when considered in the light of principles applicable in proceedings for judicial review. I will not refer in detail to all of the submissions that Ms Cann made in her skeleton argument since, at the hearing, her submissions coalesced around three arguments as to why HMRC's decision on "special circumstances" was said to be flawed:

(1) HMRC failed to consider the question of "special circumstances" at all when issuing the penalty or when performing their review of the decision to issue the penalty.

(2) HMRC failed to give adequate reasons for the decision that they made on "special circumstances".

(3) Insofar as they did consider "special circumstances", HMRC concluded that factors set out at [11] above were precluded by paragraph 14(3)(a) of Schedule 41 from amounting to special circumstances since they related to "ability to pay". That was an error of law firstly because paragraph 14(3)(a) of Schedule 41 was concerned with ability to pay the penalty (and not the underlying duty) and secondly because the appellants were not arguing that they were unable to pay, just that their bank would not let them pay.

13. The appellants go on to argue that the circumstances in which they found themselves amount to "special circumstances" which justify the Tribunal reducing the penalty either to nil or to a lesser amount than has been charged.

14. For their part, HMRC deny that their original decision on "special circumstances" was flawed and reject each of the three criticisms made at [12]. Even if their decision was flawed, they submit that the Tribunal should not reduce the penalty for two reasons:

(1) Firstly, they argue that the factors that prevented the appellants from paying the excise duty on time were within their own control and therefore were not "circumstances", let alone "special circumstances".

(2) Alternatively, they argue that there was nothing "special" about the circumstances in which the appellants found themselves and that dealing with daily banking limits was an ordinary incident of Medway's business of carrying on a bonded warehouse.

Evidence

15. For the appellants, we had evidence from Mr Noel Bramley, who was a director of both Medway and Bramley. Mr Bramley provided a witness statement and was cross-examined. Overall, we found him to be an honest and reliable witness although he was somewhat evasive in his response to certain questions that Mr Hays put to him.

16. For HMRC we had evidence from Officer Andrew Cousins who made the penalty assessments at issue in this appeal. Officer Cousins prepared two witness statements in this appeal. With the Tribunal's permission, there having been no objection from the appellants, his second witness statement was served some two weeks before the hearing. Officer Cousins was cross-examined. A specific challenge was made to Officer Cousins's evidence namely that, despite what he said in his first witness statement, he had not actually considered the question of special circumstances when he made the penalty assessments. We will deal with that challenge in more detail later in this decision but, for the time being, simply record our view that Officer Cousins was an honest and reliable witness.

17. The appellants also prepared a helpful bound bundle of relevant documents.

Findings of fact

18. We have made the findings of fact set out at [19] to [26].

19. We were not satisfied, on a balance of probabilities, that Medway was aware that the two loads of alcohol would be arriving at its warehouse until 22 October 2012 when they actually arrived. While Medway's clients would sometimes call to "book in" deliveries that were due to be sent to Medway's warehouse, they would not always do so. In addition, while the computerised Excise Movement and Control System ("EMCS") would have generated electronic documents relating to the two loads of alcohol, Medway needed to take action in response to those electronic documents only after the goods arrived with the result that Medway would not necessarily have considered those electronic documents before the point at which the loads arrived.

20. Medway was, at all times material to this appeal, aware that its banks imposed a £50,000 daily limit on the amount that could be transferred out of its account. That amount could be increased and indeed by the time of a meeting between Officer Cousins and Mr Bramley in June 2013, it had been increased to £100,000. However, Medway did not consider it practicable to seek to increase the limit on a temporary basis. Mr Bramley was not able to recall whether he had approached Medway's bank in the 72 hours after the alcohol arrived at its warehouse to see if the £50,000 limit could be raised to permit the excise duty on that alcohol to be paid by the due date. We have concluded that Mr Bramley made no such enquiries.

21. When the alcohol arrived at Medway's warehouse and was booked into Bramley's account, Mr Bramley (and hence Medway) were aware that the excise duty would need to be paid in 72 hours. Mr Bramley hoped that the daily £50,000 transfer limit would not prevent the duty being paid in time, but, beyond ensuring that Medway collected sufficient money from its client to enable Medway to pay the duty due, he took no material positive steps to seek to ensure that the daily limits would not be breached, or to ensure that the duty could be paid by some means other than bank transfer if they were. In addition, Medway did not contact HMRC when it became clear that daily transfer limits were likely to result in Medway being unable to pay the duty by 25 October 2012 as required.

22. October is a particularly busy month for Medway. The only reason why the duty was not paid by the time the 72 hour period expired was because Medway made other payments that meant that it could not also pay the excise duty due and remain under its daily £50,000 transfer limit.

23. Medway did not consider that it was practicable to pay only part of the duty. The amounts of duty due were £20,542.06 and £25,108.85 (which were both due by 25 October 2012). It follows that, given that Medway was not considering part payments, even if Medway only made other payments of £29,457.95 (much less than the daily limit of £50,000) on all days between 22 October and 25 October 2012, it

would still not have been able to transfer the full amount of duty due on the first load of alcohol by 25 October 2012. Similarly, daily transfers of just £24,891.16 between 22 October and 25 October 2012 would have prevented it from transferring the full amount of duty due in relation to the second load by 25 October 2012.

24. Officer Cousins was aware (from discussions with Mr Bramley during a meeting in June 2013 of which he made a hand-written note) of the reasons why the duty had not been paid by 25 October 2012.

25. Ms Cann put it to Officer Cousins that he did not consider the question of "special circumstances" before the point at which he prepared his second witness statement in this appeal (which was served on 8 February 2016). She pointed out that Officer Cousins did not mention Medway's banking arrangements specifically in the penalty explanation letter and that Officer Cousins's first witness statement contained only the briefest of references to "special circumstances" on its last page where Officer Cousins stated "ability to pay is not considered to be a special circumstance". She suggested that the penalty explanation letters were simply pro forma documents and that, while they contained a statement that special circumstances had been considered, that statement was so lacking in detail and specifics as to suggest that there was no real consideration of "special circumstances". She specifically put to Officer Cousins that the only reason he made his second witness statement (containing more detail on "special circumstances") was because he had realised that he had omitted to consider "special circumstances" previously.

26. Officer Cousins was clear in his evidence that he did consider "special circumstances" before issuing his penalty explanation letters. We have accepted that evidence and have concluded that Officer Cousins considered whether Medway's difficulties with daily transfer limits constituted "special circumstances" before issuing those letters. Having considered that question he decided that, because Medway's daily transfer limits related to its "ability to pay" they could not, as a matter of law, constitute "special circumstances" and so did not need to be considered in any great detail. We have reached that conclusion for the following reasons:

(1) It was what Officer Cousins said in his first witness statement, and we considered Officer Cousins to be a reliable and honest witness. He gave clear and consistent answers to questions that were put to him and frankly admitted points that were not in his favour, for example the mistakes that he had made on two occasions with the calculation of the penalties.

(2) Officer Cousins accepted that his penalty explanation letters followed a standard format but explained that this was partly because HMRC officers have to go through a standard process before issuing those letters. That process had built into it a consideration of "special circumstances". We accepted that evidence and, having concluded that Officer Cousins was a diligent officer, that he would have followed that process.

(3) Officer Cousins's second witness statement did not contain appreciably more detail on "special circumstances" than his first. While it did contain what were effectively submissions as to whether Medway's difficulties with daily

transfer limits were "special circumstances", his second witness statement did not alter the substance of his evidence to the effect he did not consider there were "special circumstances" as Medway's difficulties related to "ability to pay". Therefore, we considered Officer Cousins's two witness statements to be consistent.

The law

Statutory provisions

27. Paragraph 4 of Schedule 41 deals with the penalty at issue in this appeal. It provides as follows:

> 4.—
>
> (1) A penalty is payable by a person (P) where—
>
> (a) after the excise duty point for any goods which are chargeable with a duty of excise, P acquires possession of the goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with the goods, and
>
> (b) at the time when P acquires possession of the goods or is so concerned, a payment of duty on the goods is outstanding and has not been deferred.
>
> (2) In sub-paragraph (1)—
>
> "excise duty point" has the meaning given by section 1 of F(No 2)A 1992, and
>
> "goods" has the meaning given by section 1(1) of CEMA 1979.

28. Paragraph 14 of Schedule 41 deals with "special circumstances" and provides as follows:

> 14.—
>
> (1) If HMRC think it right because of special circumstances, they may reduce a penalty under any of paragraphs 1 to 4.
>
> (2) In sub-paragraph (1) "special circumstances" does not include—
>
> (a) ability to pay, or
>
> (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

29. Although it was common ground that the "reasonable excuse" provisions of paragraph 20 of Schedule 41 are not relevant in the context of this appeal (since the appellants' behaviour was accepted to be "deliberate"), paragraph 20 sheds some light on how other paragraphs of Schedule 41 should be interpreted and is therefore set out as follows:

> 20.—
>
> (1) Liability to a penalty under any of paragraphs 1, 2, 3(1) and 4 does not arise in relation to an act or failure which is not deliberate if P

satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the act or failure.

(2) For the purposes of sub-paragraph (1)—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control,

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the relevant act or failure, and

(c) where P had a reasonable excuse for the relevant act or failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the relevant act or failure is remedied without unreasonable delay after the excuse ceased.

30. A taxpayer's right of appeal to this tribunal is set out in paragraph 17 of Schedule 41 as follows:

17.—

(1) P may appeal against a decision of HMRC that a penalty is payable by P.

(2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P.

31. The Tribunal's jurisdiction in relation to appeals against penalties is set out in paragraph 19 of Schedule 41 as follows:

19.—

(1) On an appeal under paragraph 17(1) the tribunal may affirm or cancel HMRC's decision.

(2) On an appeal under paragraph 17(2) the tribunal may—

(a) affirm HMRC's decision, or

(b) substitute for HMRC's decision another decision that HMRC had power to make.

(3) If the tribunal substitutes its decision for HMRC's, the tribunal may rely on paragraph 14—

(a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or

(b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of paragraph 14 was flawed.

(4) In sub-paragraph (3)(b) "flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.

Approach to determining whether a decision on special circumstances is "flawed"

32. We did not understand there to be any dispute between the parties that, in deciding whether HMRC's decision was "flawed", the Tribunal should ask itself the following questions:

(1) Did the relevant officers reach decisions which no reasonable officer could have reached?

(2) Do the decisions betray an error of law material to the decision?

(3) Did the relevant officers take into account all relevant considerations?

(4) Did the relevant officers leave out of account all irrelevant considerations?

Discussion – whether decision on "special circumstances" was "flawed"

33. As noted at [12], in order to succeed in this appeal, the appellants must establish that HMRC's decision on "special circumstances" was "flawed". In this section, we consider the various arguments that Ms Cann raised in support of her argument that the decision was flawed.

Failure to consider special circumstances at all

34. Given the findings we have made at [26], we do not accept the appellants' argument that HMRC's decision was flawed by virtue of Officer Cousins's alleged failure to consider special circumstances at all before making his penalty assessments. In *Bluu Solutions Ltd v HMRC* [2015] UKFTT 95 (TC), the Tribunal considered whether any failure to consider "special circumstances" initially could be "cured" by a subsequent consideration. However, we do not need to consider that issue since we have concluded that Officer Cousins considered "special circumstances" at the time he made his initial penalty determinations.

35. Ms Cann made a specific point about HMRC's failure to mention "special circumstances" in their review of Officer Cousins's decision. We agree that the reviewing officer, Officer Donnachie, did not mention "special circumstances" expressly in his letter. However, we do not consider that this absence makes HMRC's decision on "special circumstances" flawed. Firstly, as we have said, Officer Cousins expressly considered "special circumstances", so the point was considered by an HMRC officer with authority to make a decision on the issue. Secondly, Officer Donnachie was reviewing Officer Cousins's decision and, in the penalty explanation letters of 22 April 2014, referred to at [6], Officer Cousins mentioned "special circumstances" expressly. Officer Donnachie must, therefore, have considered the question of "special circumstances" when reviewing that decision.

Failure to give adequate reasons

36. Officer Cousins's decision was adequately reasoned. Given that he considered that the banking issues that Medway was suffering related to "ability to pay" and so were not capable of amounting to "special circumstances", there was little more that he could say in his penalty explanation letter than he did. It might, perhaps, have been

more helpful if he had said in his penalty explanation letter of 22 April 2014 that the reason why there were not considered to be any "special circumstances" was because it was considered that the problems that Medway had with its daily transfer limits related to "ability to pay". However, the failure to do so does not make his decision unreasonable.

Error of law as to what constitutes "ability to pay"

37. Ms Cann argued that Officer Cousins made an error of law in concluding that paragraph 14(2)(a) of Schedule 41 prevented Medway's daily transfer limits from constituting "special circumstances". She made two arguments in this regard:

(1) The "ability to pay" referred to in paragraph 14(2)(a) of Schedule 41 is, properly construed, referring to ability to pay the penalty (not the underlying tax).

(2) In any event, "ability to pay" is referring to an inability that is inherent in the taxpayer concerned, not something that is imposed on the taxpayer by an outside agency.

38. Ms Cann submitted that it made sense for paragraph 14(2)(a) to be referring to ability to pay the penalty since "special circumstances" need only be considered in the context of a penalty that is otherwise properly chargeable. However, if Parliament had intended to refer specifically to inability to pay the penalty, they might have been expected to say so explicitly. Moreover, paragraph 14(2)(b) of Schedule 41 is clearly talking about matters that go beyond an examination of the penalty itself which suggests that paragraph 14(2)(a) is similarly not limited to an examination of ability to pay the penalty.

39. In any event, we do not consider that it is logical for paragraph 14(2)(a) to refer only to ability to pay the penalty. That can be seen by comparing paragraph 14 of Schedule 41 with the "reasonable excuse" provisions of paragraph 20. Paragraph 20 prevents an "insufficiency of funds" from being a reasonable excuse in many cases. An "insufficiency of funds" must surely be an example of an "inability to pay". Therefore, if Ms Cann's submission were correct, a taxpayer who had insufficient funds to pay the underlying duty might find that this insufficiency could not amount to a "reasonable excuse" but, would not be prevented from being a special circumstance (since, applying Ms Cann's reasoning, the inability to pay would relate to the duty, rather than the penalty). We do not see any reason why Parliament might be presumed to intend this result.

40. Nor can we see any justification on the face of the statutory provisions for giving "ability to pay" the restricted meaning for which Ms Cann argues at [37(2)]. On the contrary, we think that there is a strong inference that it is to be given a wide meaning. In paragraph 20 of Schedule 41 Parliament provides that an "insufficiency of funds" does not generally amount to a reasonable excuse. Yet, despite having used the phrase "insufficiency of funds" in paragraph 20, Parliament uses a completely different phrase, namely "ability to pay". There is, therefore, a clear inference that "ability to pay" is something different from "insufficiency of funds".

41. Approached in this way, we consider that an inability to pay is a broader concept than "insufficiency of funds". A person who has money in a bank account but who is unable to transfer that money, whether because of the application of daily transfer limits or otherwise can, as a matter of ordinary English, be said to be "unable to pay", even though there is no insufficiency of funds. We see no reason why the words used in the statute should not be given this ordinary meaning.

42. We therefore do not accept either of Ms Cann's arguments on the meaning of "inability to pay", and we conclude that Officer Cousins made no error of law in his approach to the question of special circumstances.

Conclusion on whether the decision was "flawed"

43. We do not consider that HMRC's decision on "special circumstances" was "flawed".

44. Officer Cousins took all relevant factors into account. We do not consider that his conclusion that, because they related to "ability to pay" Medway's problems with its bank could not amount to "special circumstances", contained an error of law for reasons set out at [37] to [42].

45. In her skeleton argument (though not at the hearing) Ms Cann submitted that Officer Cousins had taken an irrelevant factor into account (namely previous penalties that HMRC had issued the appellants). Officer Cousins said, and we have accepted, that he regarded those previous penalties as being relevant to the question of whether the appellants' behaviour was deliberate (and not to the question of "special circumstances") and we have accepted that evidence. For that reason alone, we have not accepted the argument that Ms Cann advanced in her skeleton argument. However, we would regard it as perfectly reasonable for Officer Cousins to take into account the appellants' previous compliance in deciding whether or not to afford them discretionary relief from the penalties based on "special circumstances".

46. We do not consider that Officer Cousins reached a conclusion that no reasonable officer could have reached. In fact, as will be seen from the next section, it is the conclusion that the Tribunal would itself have reached.

47. It follows from what we have said at [43] to [46] that HMRC's decision on "special circumstances" was not "flawed" applying the test outlined at [32].

Discussion – The Tribunal's view of "special circumstances"

48. Our conclusion at [47] means that we do not need to consider what view we would reach on the question of "special circumstances" as we have no power to alter HMRC's decision given that it was not "flawed".

49. However, for completeness, we have gone on to consider what determination we would make if we did have power to approach the question of "special circumstances" afresh. Our conclusion is that Medway's issues with its daily transfer

limits are not "special circumstances" and therefore, even if we had power to do so, we would not interfere with Officer Cousins's conclusions.

50. The fundamental point is that there is nothing "special" about banks imposing daily transfer limits. They are a normal part of business banking relationships. Moreover, the question of whether circumstances are "special" needs to be determined in the light of the business that Medway was conducting. That business required it to transfer large amounts of duty to HMRC with as little as 72 hours' notice. In return for agreeing to adhere to these onerous requirements, Medway was given the privilege of being allowed to operate a bonded warehouse. It was, therefore, inherent in Medway's business that it needed to be able to ensure that daily transfer limits did not impact on its ability to transfer duty to HMRC by the due date.

51. Therefore, when Medway found itself in a position where daily transfer limits were preventing it from transferring duty to HMRC on time, that was not a "special circumstance". Rather, it was a consequence of Medway failing to ensure that it was in a position to comply with its responsibilities as an operator of a bonded warehouse.

52. Mr Bramley's oral evidence served only to reinforce that conclusion. We formed the impression from his evidence that, while he hoped that daily transfer limits would not prevent Medway from paying HMRC the money it owed in time, it was of no great concern to him if they did have that effect. We saw little, if any, evidence of Medway taking steps at the relevant times to seek to ensure that daily transfer limits did not prevent HMRC from receiving their duty on time.

53. We will not seek, in this decision, to circumscribe what is, or is not, a special circumstance, since we consider that this question involves an examination of the particular facts relevant to each appeal. It follows that we will not express a view on Mr Hays's submission that matters within Medway's control are not "circumstances" and hence not "special circumstances" as it suffices to say that there were no "special circumstances" in the context of this appeal.

Conclusion

54. For reasons that we have given, this appeal is dismissed and the penalties must stand (in the reduced amounts set out at [9]). 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.

JONATHAN RICHARDS
TRIBUNAL JUDGE

RELEASE DATE: 9 MARCH 2016