



TC05739

Appeal number: TC/2016/04930

Penalty – Income Tax – Late payment penalty - Accelerated Payment – allocation of repayment credit against earlier payment notice agreed to by taxpayer – whether allocation against earlier notice rather than payment notice to which penalty related was reasonable excuse – no - whether special circumstances warranting penalty reduction – no - appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

James Cabourne

Appellant

- and -

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

TRIBUNAL: JUDGE SWAMI RAGHAVAN

Sitting in public at Fox Court, London, on 17 March 2017

**Jonathan Hawkes of Brackman Chopra LLP chartered accountants, for the
Appellant**

Sophie Rhind, HMRC lawyer, for the Respondents

DECISION

1. Mr Cabourne appeals against a penalty imposed by HMRC on him in the amount of £2,983.26 for failing to pay by the due date the amount specified in an Accelerated Payment Notice (“APN”) of £59,665.20 in relation to his use of a scheme (the Integrated Film Scheme) (Phoenix Film Partners LLP) (“Phoenix”).

2. While Mr Cabourne’s representations to HMRC against imposition of the penalty and in his notice of appeal had raised various points:1) as to the invalidity of the APN which had given rise to the late payment penalty 2) in relation to the liquidity difficulties Mr Cabourne faced in making the payment by the due date, and HMRC’s stance on payment deferment, Mr Hawkes told the tribunal that, having considered the matter further in the light of various tribunal decisions, the appellant did not want to pursue those arguments. Rather, Mr Cabourne’s case against the penalty centred on the fact HMRC had allocated a self-assessment repayment credit against sums due in respect of another scheme in relation to which he had received an accelerated partner payment notice (“Ingenious PPN”) rather than against the APN for the Phoenix Scheme. Given the change in argument, Mr Cabourne had upon advice from his representative decided his attendance at the hearing was not necessary. There was no dispute that the documents HMRC had put before the tribunal were what they purported to be and Mr Hawkes, who had handled the correspondence and discussions with HMRC on behalf of Mr Cabourne was able to give evidence as to the circumstances of the use of the repayment credit which he went on to do in the course of the hearing. HMRC had the opportunity to cross-examine Mr Hawkes. I found him to be a credible witness.

3. The background facts which are drawn primarily from the documents before the tribunal in HMRC’s bundle (which included correspondence between the parties, notices, and details of various self-assessment returns) were as follows.

Facts

4. Mr Cabourne’s self-assessment tax return for the year ended 5 April 2009 claimed that income tax had been overpaid in the sum of £56,855.55. This was due in large part to an increased amount of loan interest claimed under s398 of the Income Tax Act 2007.

5. On 30 April 2010 HMRC opened an enquiry under s9A Taxes Management Act 1970 into his use of the Phoenix scheme (DOTAS number 16623361). This enquiry remained open.

6. The repayment claimed in the return was not paid to the appellant due to the open enquiry but appeared as a credit on the appellant’s Self-Assessment account.

7. On 20 May 2015 it was agreed between the appellant’s agent and HMRC that the repayment credit be set off against the appellant’s PPN in relation to his use another scheme (the Ingenious PPN which related totax year 2004-5). The credit was

accordingly set off but it was not clear who, as between HMRC and the appellant's agent, had first proposed the set off. HMRC's note of the telephone call recorded that following a long discussion with regards to the legislation, "We agreed for credit on SA to be allocated against AP". (At this point in time the Phoenix APN had not been issued; the reference to AP was therefore to the Ingenious accelerated partner payment which had been issued with a due date in January 2015). Mr Hawkes could not recollect whether it had been him or the debt management officer he had spoken to who had agreed for the credit to be applied in that way.

8. It could be seen from HMRC's Notice of Penalty in respect of dated 24 June 2015 the Ingenious PPN that a credit had been applied. That notice referred to an accelerated payment amount of £200,109.60. The PPN penalty amount of £7,280.20 had however been calculated as 5% of £145,604.03 (The difference between the APN amount and the sum on which the penalty had been calculated being accounted for a credit of £54,505.57).

9. On 25 June 2015 the appellant received advance notice that he would be issued with an APN in the next 1-6 weeks and was advised in the letter to phone HMRC if there were payment difficulties.

10. On 24 July 2015 HMRC issued an APN for Phoenix for the tax year 2008-9. The APN specified that £59,665.20 had to be paid by 27 October 2015 or if representations were made the later of 27 October 2015 and the date falling 30 days after HMRC's decision following the representations. The notice stated penalties would be incurred if the Accelerated Payment was not paid by: the due date, 5 months after due date, and 11 months after the due date. A reminder of the deadline was sent by HMRC to Mr Cabourne with a copy to his representative on 10 September 2015.

11. Mr Cabourne's representative sent in representations on 20 October 2015. In summary these were that the APN was not legally invalid because Condition B (extract at [19] below) had not been met in that a tax advantage did not result from "the chosen arrangement"; it was not the fact of Mr Cabourne investing in, or the operation of the scheme which resulted in relief, rather it was the fact he had made a claim for relief under s398 ITA 2007)). The representations also explained that he would suffer undue hardship if HMRC insisted on payment, pointing out that Mr Cabourne had been living off savings following his redundancy as a City insurance broker, following which his income had been greatly reduced, and that it would be disproportionate to expect him to sell his house, it being difficult and expensive to borrow funds. HMRC were asked to defer payment until the expiry of the conclusion of the enquiry into the loan interest relief.

12. On 26 February 2016 HMRC reviewed the representations but went on to confirm the APN in the same sum and to set out that in accordance with the statutory provisions the payment period for the amount ended on 1 April 2016. In a section entitled "What if you have problems paying" Mr Cabourne was invited to phone HMRC to discuss further.

13. On 18 March 2016 Mr Cabourne's representative wrote to HMRC making further representations and asked again to defer the payment. The letter made a number of points in connection with the request: 1) An appeal was pending to the Court of Appeal against the High Court's decision on a judicial review in *Rowe* ([2015] EWHC 2293 (Admin)) which concerned analogous Partner Payment Notices by taxpayers who were members of partnerships set up by Ingenious Media Ltd. It was premature and inappropriate for HMRC to seek to collect an upfront payment of tax pending the appeal. 2) HMRC were failing to treat taxpayers fairly and equally as APNs had been sent to other partners at different times and on different bases. 3) Condition C (extract at [19] below) was not met as HMRC had not addressed whether the DOTAS arrangements were notifiable as opposed to simply being notified, 4) the "disputed tax" was wrong as HMRC were requiring the whole of the "asserted advantage" amount when they should have required only that which was *not* a "tax advantage" under s220(5)(b) FA 2014, and further the tax advantage did not result from the "chosen arrangements" 5) HMRC had not refunded the tax due to him for the year ended 5 April 2009 and had not accordingly had any cash flow disadvantage.

14. HMRC responded on 1 April 2016 stating it was unable to consider any further arguments in relation to the APN as the review was complete, or to agree to the request for deferment. The letter reiterated the invitation to call HMRC if it was believed that HMRC held credits on the appellant's behalf or that Mr Cabourne would suffer hardship in making the payment. No phone calls were made in response to either the 26 February 2016 letter or the 1 April 2016 letter.

15. On 2 May 2016 HMRC issued a notice of penalty assessment to Mr Cabourne in the amount of £2,983.26 being 5% of the Accelerated Payment of £59,665.20.

16. Mr Cabourne appealed to HMRC in a letter from his representative dated 19 May 2016. HMRC provided their view on matter on 7 June 2016, offering an independent review which was accepted on 21 June 2016. On 22 August 2016 HMRC sent Mr Cabourne a letter explaining that the outcome and the conclusions of the review upholding the penalty in the original amount. The review conclusion was that the penalty was correctly issued, that there was no reasonable excuse for the failure to pay in time and that there were not any special circumstances which allowed the review officer to reduce the penalty under the Special Reduction provisions of paragraph 9 Schedule 56 FA 2009. As the centrepiece of Mr Cabourne's case as put before the tribunal at the hearing was that HMRC's decision that there no special circumstance was flawed I set this part of the review letter in more detail.

17. After stating that that penalty could be reduced if there were special circumstances and that this meant circumstance which were "uncommon or exceptional" the officer went on to state:

"I have carefully considered all of the information I hold but do not think there any special circumstances which allow me to reduce the penalty.

In reaching my decision I considered the following:

- 5
- You did not have the resources immediately available to you to meet the APN in full
 - You repeatedly requested deferment from HMRC
 - You wished to settle in full and agree a time to pay arrangement
 - The APN amount should have been reduced because you did not receive the repayment due from tax deducted from PAYE

10 Please let me know if you think there are any other circumstances you have either not told me about or you believe we should take into account.”

18. The full amount of the APN was paid by the appellant on 15 June 2016 by means of a third party loan.

Law

Statutory provisions dealing with APNs

15 19. The circumstances in which an APN may be issued are set out in s219 of Finance Act 2014. That section provides, so far as relevant to this appeal, as follows:

“219 Circumstances in which an accelerated payment notice may be given

20 (1) HMRC may give a notice (an “accelerated payment notice”) to a person (“P”) if Conditions A to C are met.

(2) Condition A is that—

(a) a tax enquiry is in progress into a return or claim made by P in relation to a relevant tax....

25 (3) Condition B is that the return or claim or, as the case may be, appeal is made on the basis that a particular tax advantage (“the asserted advantage”) results from particular arrangements (“the chosen arrangements”).

(4) Condition C is that one or more of the following requirements are met—

30 ...

(b) the chosen arrangements are DOTAS arrangements;

...

(5) “DOTAS arrangements” means—

35 (a) notifiable arrangements to which HMRC has allocated a reference number under section 311 of FA 2004,

(b) notifiable arrangements implementing a notifiable proposal where HMRC has allocated a reference number under that section to the proposed notifiable arrangements, or

...”

20. Section 220 of Finance Act 2014 specifies the content of an APN, which is issued under s219(2)(a). It must state the amount of “understated tax” which must then be paid as an “accelerated payment” within the time limit specified in s223 of Finance Act 2014.

5 21. Section 222 of Finance Act 2014 entitles a person receiving an APN to make representations to HMRC objecting to the APN on the grounds that Conditions A to C referred to in s219 are not satisfied, or objecting to the amount of accelerated payment that is required. Any such representations must be made within 90 days of the date the notice was given and HMRC are obliged to consider any representations that are
10 made.

22. Section 223 provides in relation to the APNs in issue in this case that the accelerated payment must be made before the end of the payment period which is defined in the case where representations under s22 have been made as the later of the 90 day period beginning on the day on which the APN is given or the “the period of
15 30 days beginning with the day on which [the person] is notified under section 222 of HMRC’s determination.”

23. There is no statutory right of appeal to this Tribunal against HMRC’s decision to issue an APN but there is an appeal to this Tribunal against a penalty that is imposed in consequence of a taxpayer’s failure (or alleged failure) to make an accelerated
20 payment.

24. Section 226 of Finance Act 2014 imposes a penalty for failure to comply with an APN and provides, so far as material, as follows:

“226 Penalty for failure to pay accelerated payment

25 (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while tax enquiry is in progress) (and not withdrawn).

(2) If any amount of the accelerated payment is unpaid at the end of the payment period, P is liable to a penalty of 5% of that amount.

30 (3) If any amount of the accelerated payment is unpaid after the end of the period of 5 months beginning with the penalty day, P is liable to a penalty of 5% of that amount.

...

(5) “The penalty day” means the day immediately following the end of the payment period.

35 ...

(7) Paragraphs 9 to 18 (other than paragraph 11(5)) of Schedule 56 to FA 2009 (provisions which apply to penalties for failures to make payments of tax on time) apply, with any necessary modifications, to a penalty under this section in relation to a failure by P to pay an amount of the accelerated payment as they apply to a penalty under that
40 Schedule in relation to a failure by a person to pay an amount of tax.”

Statutory provisions relating to an appeal against the penalty

25. Section 226(7) of Finance Act 2014 therefore applies certain provisions of Schedule 56 of Finance Act 2009 (“Schedule 56”) to penalties charged under that section. Paragraph 13 of Schedule 56 confers a right of appeal to this Tribunal. The
5 scope of the right of appeal is set out as follows:

“13 Appeal

- (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
10 penalty payable by P.”

26. Paragraph 16 of Schedule 56 sets out a defence of “reasonable excuse” as follows:

“16 Reasonable excuse

- (1) Liability to a penalty under any paragraph of this Schedule does not arise in relation to a failure to make a payment if P satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a
15 reasonable excuse for the 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
20 reasonable excuse unless P took reasonable care to avoid the failure, and
- (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse
25 if the failure is remedied without unreasonable delay after the excuse ceased.”

27. Paragraph 9 of Schedule 56 deals with “special circumstances” as follows:

“9 Special reduction

- (1) If HMRC think it right because of special circumstances, they
30 may reduce a penalty under any paragraph of this Schedule.
- (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.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes
35 a reference to—
- (a) staying a penalty, and
- (b) agreeing a compromise in relation to proceedings for a penalty.”

28. Paragraph 15 of Schedule 56 sets out the scope of the Tribunal’s jurisdiction on an appeal as follows:

“15

- 5 (1) On an appeal under paragraph 13(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 13(2) that is notified to the tribunal, the tribunal may—
- 10 (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 9—
- 15 (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 9 was flawed.
- 20 (4) In sub-paragraph (3)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (5) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 14(1)).

Discussion

25 29. There was no dispute between the parties as to the fact that the accelerated payment had not been paid in full by the statutory due date (thirty days after Mr Cabourne was notified of HMRC’s decision under s222 FA 2014 or in any event by the deadline set by HMRC 1 April 2016 if it turned out that was later than the due date (HMRC assumed a period of 4 days for their letter of 26 February 2016 to reach

30 Mr Cabourne)).

30. As indicated above the argument made by Mr Hawkes on behalf of the appellant centres on the application of a repayment credit against the appellant’s liability under the Ingenious PPN. His case is that the credit had nothing to do with the Ingenious liability and that it should have been given against the putative tax loss

35 in respect of which the penalty had been imposed i.e. the Phoenix APN. If that had been done the amount on this particular penalty notice would have been reduced. The appellant did not regard the Ingenious liabilities as “live” in that pending the outcome of the judicial review proceedings in relation to the notices HMRC were not actively pursuing the liabilities.

40 31. Mr Hawkes submits this point should have been considered by HMRC as a special circumstance warranting a reduction in the penalty, that HMRC consideration

of special circumstances under paragraph 9 was accordingly flawed which then allowed the tribunal to rely on paragraph 9 of Schedule 56 (set out at [27] above) to reduce the penalty.

Reasonable excuse?

5 32. Although the appellant couched his argument in the context of the provisions in paragraph 9 Schedule 56 on special reduction, as I indicated at the hearing, the tribunal would also his argument under the guise of the provisions on reasonable excuse in paragraph 16 of Schedule 56. I deal with this aspect first because if I were satisfied the point raised amounted to a reasonable excuse that would mean there was
10 no liability for a penalty and no need to consider the special reduction provisions. For the reasons set out below, I agree with Ms Rhind who appeared on behalf of HMRC that the appellant did not have a reasonable excuse.

15 33. The application of the credit was not something HMRC did unilaterally; the appellant agreed to the application of the credit and in doing so took the benefit of reducing sums due on the Ingenious PPN and mitigating his exposure to potential late payment penalties in relation to that PPN. I also note that it is implicit in the appellant's argument that because of the application of the credit he had insufficient funds to pay the Phoenix APN by the due date.

20 34. Under paragraph 16(2)(a) of Schedule 56 (extracted at [26] above) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control. I agree with HMRC's submissions that the appellant has not shown that the failure to pay was due to an insufficiency of funds; although assertions as to a lack of liquid funds in representations were made in correspondence from the appellant's representative, no documentary evidence e.g. bank statements, details of
25 assets, liabilities and outgoing, or oral evidence in the form of Mr Cabourne telling the tribunal what his financial circumstances were around the relevant time has been made available to the tribunal. There is accordingly insufficient evidence before the tribunal to make a finding of fact that the failure to pay was due to insufficiency of funds. But even if that fact is assumed then it follows from the fact the appellant
30 agreed to the application of the credit that any resulting insufficiency of funds was not outside the appellant's control. My conclusion is the use of the repayment credit pursuant to the appellant's own agreement did not provide a reasonable excuse for paying the amount due under the Phoenix APN late.

Special circumstances

35 35. HMRC disagree their decision on the application of paragraph 9 was flawed. Their position as set out in their skeleton and as submitted by Ms Rhind at the hearing is that no reduction is in any event warranted.

40 36. As is clear from the legislation the tribunal can only reduce a penalty if HMRC's decision in respect of the application of paragraph 9 is flawed when considered in the light of the principles applicable in proceedings for judicial review. This will be the case if HMRC: failed to consider its discretion, considered something

which was irrelevant, failed to consider something irrelevant, or came to a decision it could not reasonably have reached.

37. In essence Mr Cabourne's case is that HMRC's consideration was flawed because HMRC 1) failed to take account of what the appellant maintains is a relevant fact namely that the credit ought to have been applied to reduce the Phoenix APN rather than the Ingenious PPN, 2) reached a decision it could not reasonably have reached.

38. Having considered the matter I do not agree that HMRC's consideration in relation to special circumstances was flawed. I note that the appellant's argument made at the hearing was not in terms articulated to HMRC by the time of review in either the appellant's written representations or in response to HMRC's invitation to come back with any further information. From that point of view I do not think HMRC's consideration can be criticised for not specifically considering a point which was not put to it. To the extent the point was encapsulated in the appellant's argument that the APN amount should have been reduced because he had not received the repayment due from tax deducted from PAYE then it is clear from the bulleted points in the officer's review letter that the argument was considered by the officer upon review.

39. As to 2) it was not unreasonable for the officer to have concluded as she did in circumstances where the appellant's agent had agreed to the application of the credit against the Ingenious PPN. (The test the officer used of circumstances which are uncommon or exceptional does not seem to me to be out of kilter with the meaning of "special" in the context of the statutory scheme and taking account that the fulfilment of that term will only be relevant in situations where a taxpayer has not been able to establish that he or she has a reasonable excuse for the failure). Nor in my view is there merit in the point that because collection of the liability on the Ingenious PPN was not "live" as there were pending judicial review appeal proceedings, it ought to be taken into account that with the benefit of hindsight the application of the credit should not have been made in the way it was. It was open for the appellant to take a view on the consequences of any judicial review action against the Ingenious PPN and weigh up, taking account of his own particular financial circumstances and the likely merits of that action, whether to make a payment against the Ingenious PPN or conserve the credits for potential further APNs.

40. But even if I was wrong in concluding HMRC's decision was not "flawed" in the sense described above, I would in any case reject the argument that the point raised by the appellant amounted to special circumstances which warranted a reduction.

41. There are, as I see it, two aspects to the appellant's case. The first goes to the appellant's complaint that the set off arose out of an administrative action on the part of HMRC. In my view this point is met by the fact that whether or not action was taken pursuant to the appellant's or HMRC's initiative is irrelevant; either way the appellant agreed to it. The second aspect relates to hindsight. Knowing what is known now, namely that there was, from the appellant's point of view, less of a need to apply

the credit to the Ingenious PPN liability and more of a need to apply it to the Phoenix did this feature amount to special circumstances?

42. It should be noted that it cannot be assumed that if despite the appellant's agreement, HMRC had held off applying the credit to the Ingenious PPN that the Ingenious PPN would have been paid by the due date and that if it had not that the appellant's exposure to a penalty would not then be increased. The position whereby a penalty on a later payment liability is escaped from or mitigated because there were special circumstances or for that matter a reasonable excuse on the hypothesis that certain things would have happened, but where on the same hypothesis a penalty might then arise on an earlier liability is not in my view consistent with the underlying purpose of the legislation of penalising late payments. Parliament cannot have intended the provisions to relieve or reduce liability on one penalty on an assumption that funds or credits could have been re-allocated where that reallocation would then put the appellant in jeopardy of a penalty for not making a timely payment on another liability.

43. Underlying the appellant's argument is the view that it could not have been anticipated that payment of the Ingenious PPNs would become less of a priority in view of the judicial review proceedings taken in relation to the notices. Although those proceedings were not heard in the High Court until 14-17 July 2015 the appellant, having received the Ingenious PPNs would well before that date have been in a position to consider the prospects of success and the ramifications of the success or failure of any judicial review proceeding in relation to his notices, and the liabilities under the Ingenious PPNs. While the Phoenix APN had not been issued as at 20 May 2015, it cannot have come as a surprise, given the existence of the APN legislation, and its particular terms, and the fact that HMRC had previously issued an enquiry in 2010 which associated the appellant's loan interest claim with another specified DOTAS scheme that HMRC might also issue an APN in relation to Phoenix.

44. In conclusion, even if I were to find that HMRC's application of the legislation in relation to special circumstances was flawed I would not accept that the fact the appellant chose to sanction the application of the repayment credit to reduce his liability under the Ingenious PPN (thereby reducing the amount on which a penalty could be charged in respect of late payment of the Ingenious PPN) rather than have it used against the Phoenix APN amounted to a special circumstance which ought to lead to the penalty being reduced.

Other arguments

45. For the sake of completeness I deal briefly with Mr Cabourne's other arguments. In his Notice of Appeal Mr Carbourne argues that HMRC did not look at the matter holistically by taking account of other payment notices and maintains that if a realistic payment plan had been agreed then penalties would not have become exigible. HMRC ought, he argues to have deferred the payment. He maintains his financial details were sent in on two separate occasions and that HMRC ought to have

been aware of his circumstance from the information provided in the context of his judicial review proceedings.

46. I agree with Ms Rhind’s submissions on behalf of HMRC that these arguments are not made out by the evidence before the tribunal. The appellant was, it transpires, able to find a third party loan and pay the amount due on 15 June 2016. There is no evidence before me to explain why steps to fund the payment through such a loan could not have been taken sooner. There was, as pointed out above, insufficient evidence on Mr Cabourne’s liquidity issues. Such evidence that there was, in the form of Mr Caborne’s self-assessment returns, pointed to his having a rental property and earning a level of income subject to higher rate tax (although it is accepted this was at a much lower level than he enjoyed prior to his redundancy). As to the point that financial disclosure had already been made in his judicial review proceedings there was no evidence as to what had been provided, and when, so as to allow the tribunal to make relevant findings of fact.

47. In relation to his arguments 1) that the APN was invalid because his claim to loan relief was not related to his use of the scheme referred to on the APN and 2) that he never enjoyed a “tax advantage” and as such the APN should not have been issued, these matters go to the statutory conditions for issue of the accelerated payment notice. In the First-tier Tribunal’s (“FTT’s”) decision in *Nijar v HMRC* [2017] UKFTT 0175 (TC) the tribunal set out at [27] to [29] of its decision by reference to an analysis of the statutory scheme, with which I respectfully agree, why an attack on the statutory conditions was not within the tribunal’s jurisdiction either expressly or implicitly; such a challenge would need to be by way of judicial review. Although Mr Hawkes, for the appellant, was made aware the FTT’s analysis was persuasive and not binding he did not seek to mount a challenge against it.

Conclusion

48. HMRC’s decision imposing a penalty in the amount of £2,983.26 is affirmed. The appellant’s appeal is dismissed.

49. 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.

SWAMI RAGHAVAN

TRIBUNAL JUDGE

RELEASE DATE: 29 MARCH 2017