



TC03334

Appeal number: TC/2012/06846

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

MICHAEL BASMAN T/A UK CHESS CHALLENGE Appellant

- and -

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

TRIBUNAL: JUDGE ALEKSANDER

Having read the Appellant's letters of 12 October 2013 and 19 November 2013

IT IS DIRECTED that the Appellant's application for an extension of time to apply for a decision giving full facts and reasons is DISMISSED.

REASONS

1. On 6 September 2013 the Tribunal released directions striking out the Appellant's appeal on the basis that there were no reasonable prospects for the appeal succeeding. The decision notice included the standard paragraph stating that the documents contained a summary of the findings of fact and reasons for the decision, and that any party wishing to appeal against the decision must apply within 28 days of the date of release for full written findings and reasons, and the party then has 56 days in which to appeal. A similar statement was included in the guidance notes that accompanied the decision.
2. The Appellant applied by letter dated 12 October 2013 for permission to appeal. The application was treated as a late request for full written findings and reasons.
3. The Appellant gives as his reason for late application that he read the guidance notes and saw that 56 days was the time given as the time to appeal. He had not realized that he had first to apply within 28 days for full written findings and reasons. He draws the attention of the Tribunal to the fact that in the guidance notes "56 days" was printed in bold, whereas "28 days" was not.
4. I do not consider that this is an adequate reason to allow for a late application for full written findings and reasons. It is clear on the face of both the decision and the guidance notes that the application for full written findings and reasons has to be made within 28 days, and that application for permission to appeal can only be made after the full written findings and reasons have been issued. The fact that "56 days" is printed in the guidance notes in bold does not justify an extension to the time limit.
5. In reaching this conclusion, I also take into account the fact that the reason the Appellant has applied for full written findings and reasons is because he wishes to apply for permission to appeal. The grounds for his application for permission to appeal are set out in his letter of 12 October 2013. These are that "compliance with tax regulations involves a considerable amount of work" and amounts to unpaid labour which breaches the Appellant's rights under Article 4 of the European Convention of Human Rights. The Appellant also takes exception to the word "mere" in paragraph 6 of the decision (the sentence in question reads "The mere fact that an activity may be beneficial to its participants (or more generally), is not sufficient for it to be exempt from VAT"). The Appellant objects to the implication that exemption from VAT has no relation to the worthiness of the cause or the value of an activity.
6. There is no prospect that the Appellant would be given permission to appeal on either of these grounds.
7. As regards any right under Article 4 of the Convention, a decision of the Supreme Court in *R (oao Reilly) v Secretary of State* [2013] UKSC 68 is relevant. The Supreme Court's judgment was given on 30 October 2013, which is after the date of release of the Tribunal's decision. The Supreme Court decision relates to a requirement for certain persons in receipt of Jobseekers Allowance to undertake work. One of the issues in that case was whether a requirement to undertake work experience amounted to forced or

compulsory labour prohibited by the Convention. At paragraph 89 of its decision, the Supreme Court clarifies what amounts to a violation of Article 4:

5 “To amount to a violation of article 4, the work had to be not only compulsory and involuntary, but the obligation to work, or its performance, must be "unjust", "oppressive", "an avoidable hardship", "needlessly distressing" or "somewhat harassing". As we read the judgment, the [European Court of Human Rights] was not [in the *Van Der Mussele* case] setting out five different categories but was using a variety of expressions to elucidate a single underlying concept, which we have referred to as exploitation. In *Van Der Mussele* (1983) 6 EHRR 163, at 10 para 40, the court concluded for a combination of reasons that there had been no forced labour within the meaning of article 4.2, having regard to the social standards generally obtaining in Belgium and in other democratic societies. The court therefore considered it unnecessary to 15 decide whether the work in question was in any event justified under article 4.3(d). “

8. Notwithstanding the Appellant’s subjective assessment that the requirement to complete a tax return is oppressive, the obligation is clearly not exploitative in the sense set out in the decision of the Supreme Court. The Appellant’s case must be bound to fail, and it was for this reason that his appeal was struck out. Any appeal to the Upper Tribunal on this point is hopeless, and an application for permission to appeal is bound to be refused..

9. The objection to the use of the word “mere” in the Tribunal’s decision is also misplaced. The application of VAT to supplies is determined in accordance with the law, and whether an activity is beneficial to its participants is not a criterion set out in the law as a basis for exempting a supply from VAT. If the Appellant does not like the law, his remedy is not before the courts and tribunals (which have to apply the law), rather his remedy can only be to change the law, and therefore the remedy rests with his MP and MEP. Again, any appeal to the Upper Tribunal on this point is utterly hopeless, and an application for permission to appeal is bound to be refused.

10. For these reasons, the application for an extension of time within which to apply for full written findings and reasons is dismissed.

11. 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.

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**NICHOLAS ALEKSANDER
TRIBUNAL JUDGE**

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RELEASE DATE: 10 February 2014