



TC03467

Appeal number: TC/2012/03121

VALUE ADDED TAX — default surcharge — payments made a few days late — no reasonable excuse — appellant suffering financial difficulties in recession — unfairness of penalty — appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

EUROLET LLP

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE COLIN BISHOPP

Sitting in public in London on 26 March 2014

Mr Mark Vincent, member, for the appellant

Mr Bruce Robinson, presenting officer, for the respondents

DECISION

1 In this appeal Eurolet LLP challenges the imposition on it of three default
surcharges for the late payment of its VAT liability in periods 06/11, 09/11 and
5 12/11, in the total sum of £4,971.22. Eurolet had been in the default surcharge
regime for some time, and of these surcharges the first was imposed at the rate of
10% and the others at 15%.

2 Mr Mark Vincent, who represented Eurolet before me, explained that the
payments had been made late—in the first case by about three weeks, in the others
10 by a few days—because, in the current difficult economic climate, Eurolet was
struggling to continue trading, and the imposition on it of what he considered to
be very unfair penalties for short delays in payment would have the effect of
making it even harder for it to survive. He did not blame the delays on anything
other than cash flow difficulties.

15 3 Mr Vincent is not alone in arguing that the default surcharge is an unfair
burden on business, and I understand his sense of grievance. But Parliament has
decided that a trader must pay the VAT he owes by a prescribed date, and that if
he does not he is liable to a surcharge unless he has a reasonable excuse. The
legislation also makes it clear that a shortage of funds is not a reasonable excuse.
20 In Eurolet’s circumstances, therefore, the surcharges were correctly imposed and
there is simply nothing this tribunal can do. I must accordingly dismiss the appeal,
in respect of each of the surcharges.

4 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
25 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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COLIN BISHOPP
CHAMBER PRESIDENT

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RELEASE DATE: 1 April 2014

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