



**TC03681**

**Appeal number: TC/2014/00858**

*VAT – late submission of return and late payment - insufficiency of funds- no reasonable excuse*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**S SAMUDDIN LTD**

**Appellant**

**- and -**

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

**TRIBUNAL: JUDGE ALASTAIR J RANKIN**

**The Tribunal determined the appeal on 19 May 2014 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 19 December 2013 (with enclosures) and HMRC's Statement of Case (with enclosures).**

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## DECISION

1. The Appellant company has been in the default surcharge regime from the period 08/11 onwards and is appealing against a default surcharge of £731.45 for the period 05/13.
2. The VAT return for the period 05/13 should have been filed electronically on 7 July 2013 and payment made by direct debit on 10 July 2013.
3. The Appellant company in its grounds of appeal state that by July 2013 it still had not received monies that were owing to it for work carried out in May 2013. As a result it guessed at the VAT and submitted the return on 13 July 2013 and the direct debit was set up for payment on 17 July 2013.
4. The Appellant company therefore accepts that the return and payment were submitted after the due date.
5. The Appellant company does not appear to have made contact with either the National Advice Service or the Debt Management Unit of HMRC before the due date.
6. An insufficiency of funds is not a reasonable excuse and no other explanation for the late submission has been offered by the Appellant company.
7. As the surcharge in respect of the period 05/13 has been correctly issued in accordance with section 59(4) of the Value Added Tax Act 1994 the appeal is dismissed. Following the submission by the Appellant company of a correction to the 05/13 return on 19 December 2013 the surcharge has been recalculated and reduced to £719.00. This amount remains due for payment by the Appellant company.
8. 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.

**ALASTAIR J RANKIN**  
**TRIBUNAL JUDGE**

**RELEASE DATE: 2 June 2014**