



**TC03710**

**Appeal number: TC/2014/01452**

*VAT – Default Surcharge – penalty – whether properly imposed – whether reasonable excuse*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**GLOBALGRAPHICS ASSOCIATES LTD**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE WDF COVERDALE**

**The Tribunal determined the appeal on 03.06.2014 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 10.03.2014 (with enclosure) and HMRC's Statement of Case submitted on 09.04.2014 (with enclosures).**

## DECISION

5 1. The Tribunal decided that the Notice of Assessment of Surcharge dated 17.05.2013 in the sum of £1,462.26 in respect of VAT due for the period 01.01.2013 to 31.03.2013 was properly imposed.

2. The appeal is dismissed.

3. The Tribunal found that the VAT Return for the period 01.01.2013 to 31.03.2013 was received by the Respondents on 30.04.2013. The due date for  
10 payment was 07.05.2013 for electronic payments; payment was received by the Respondents on 08.05 2013 via the Faster Payments service i.e. one day late.

4. The Tribunal further found that there was no reasonable excuse for the late  
15 payment of VAT for the period ended 31.03.2013. In particular the Appellants had been in the Default Surcharge Penalty regime since the period ended 30.06.2011 and indeed during earlier periods going back to September 1998. Defaults during the current Default Surcharge period result in a surcharge rate of 15% of the VAT due.

5. In a letter dated 04.06.2013 the Appellants said that they had made payment of the entire amount of VAT on 04.05.2013 and refer to problems that may have  
20 occurred due to a Bank Holiday period. The Respondents have correctly observed that the Appellants have supplied no evidence of any problem with their bankers; a Faster Payments payment made on 04.05.2013 could indeed have been expected to be received by the Respondents in less than four days but the Tribunal is unable to give credence to the Appellant's argument in this respect in the absence of evidence. In  
25 any case it is noted that in their letter of appeal the Appellants said that they had only authorised their bank to make payment on 07.05.2013.

6. The Default Surcharge Regime is strict and a penalty is properly imposed even if payment is made only one day late. The Appellants will have been aware of the necessity for timely payments from the terms of the numerous notices that they will have received in connection with previous penalties.

30 7. In so far as the Appellants may seek to argue that they had an insufficiency of funds this is specifically excluded from providing reasonable excuse for default by Section 71(1)(a) of the VAT Act 1994.

8. This document contains full findings of fact and reasons for the decision. Any  
35 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.

**WDF COVERDALE  
TRIBUNAL JUDGE**

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**RELEASE DATE: 10 June 2014**