



**TC05850**

**Appeal number: TC/2014/06549**

*PROCEDURE – application to submit additional documents – granted –  
application to postpone - granted*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**BOTLEIGH GRANGE HOTELS LIMITED**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE ANNE FAIRPO  
LESLEY STALKER**

**Sitting in public at Fox Court on 25 April 2017**

**Mr Etienne Wong, Counsel for the Appellant**

**Ms Ashworth, presenting officer for HM Revenue and Customs, for the  
Respondents**

## DECISION

### **Introduction**

5 1. The substantive matter is an appeal against VAT assessments and penalties for a number of periods.

2. At this hearing, two applications were considered: first, an application by the appellant to submit additional documents and second, an application by the respondent (“HMRC”) to postpone the hearing to allow the documents to be  
10 considered and for the parties to endeavour to resolve the matters under appeal by way of Alternative Dispute Resolution.

### **Appellant’s application to submit additional documents**

3. Having previously been conducting this appeal in person, the appellant instructed Counsel in early April 2017. Following this, an application to submit  
15 additional documentation was sent to the Tribunal on 18 April 2017. The additional documentation in question was circulated to HMRC and the Tribunal in the evening of 20 April 2017. The documentation is stated to be material to the issues in the substantive appeal.

4. No reply from the Tribunal to the application had been received at the date of  
20 this hearing and so, given the overriding objective, we considered the application at the beginning of the hearing.

5. HMRC stated that they had no objection to the submission of the additional documentation.

6. We considered the application; whilst it is regrettable that the appellant had not  
25 sought representation earlier and so identified the need to disclose these additional documents earlier, we concluded that, in the interests of justice, the application to submit additional documentation should be allowed.

### **HMRC’s application to postpone the hearing**

7. On receipt of the application to submit additional documentation and the  
30 indication of the additional documents, HMRC submitted an application to postpone the appeal. This was rejected on 21 April 2017. HMRC renewed the application at the start of the hearing.

8. The reasons stated for requesting the postponement were, firstly, the need for  
35 time to consider the additional papers fully and secondly, HMRC consider that the additional documentation provided may be sufficient for the parties to come to an agreement on the matters in the substantive appeal.

9. The appellant confirmed that they made no objection to the application to postpone the hearing and agreed that the additional information provided a better opportunity to agree the issues in the appeal. The appellant further considered that Alternative Dispute Resolution (“ADR”) may be appropriate to resolve the issues, as these were primarily fact dependent.

10. HMRC confirmed that they were amenable to an application being made by the appellant for ADR. An earlier application for ADR had been rejected by HMRC but, with the additional documentation provided, the presenting officer stated that she would ask the relevant department to agree to ADR in this matter.

11. We considered this application: in general, the Tribunal does not support late applications to postpone hearings. However, taking into account the overriding objective, we concluded that, in the interests of justice, the application should be postponed for three months to allow the parties to endeavour to resolve the matter through ADR.

**Decision**

12. The appellant’s application to submit additional documentation is allowed. HMRC’s application to postpone the hearing is allowed.

13. 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.

**ANNE FAIRPO  
TRIBUNAL JUDGE**

**RELEASE DATE: 4 MAY 2017**