Neutral Citation Number [2025] UKUT 31 (TCC)

UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER

Applicant: Laurence Supply Co (Leather Goods) Limited	**Tribunal Ref: UT/2024/000067**
Respondents: The Commissioners for His Majesty's Revenue and Customs	

APPLICATION FOR PERMISSION TO APPEAL

DECISION NOTICE

Background

1. The applicant "Laurence Supply", applies to the Upper Tribunal (Tax and Chancery) ("UT") for permission to appeal against the decision of the First-tier Tribunal ("FTT") released on 6 February 2024 ("the FTT Decision") following a hearing which took place over the dates 12-14 September 2022 and 6 June 2023 and published as *Laurence Supply Co (Leather Goods) Limited v HMRC* [2024] UKFTT 124 (TC).

2. Laurence Supply renewed its application for permission to the UT. I had previously refused permission to appeal in my decision of 5 September 2024. This is my decision following the oral renewal of the application heard on 14 January 2025. Laurence Supply was represented by counsel, Timothy Brown (who had not appeared below in the FTT, the company having represented itself at the hearing there through its director Mr Laurence Gordon and with another direction Mr Mark Gordon also attending). HMRC were represented at the oral renewal of permission hearing by counsel, Joanna Vicary who had appeared for HMRC below. I was grateful for both Mr Brown's and Ms Vicary's submissions.

3. The FTT Decision concerned Laurence Supply's appeal against a C18 Post Clearance Demand Note ("C18") related to imports by Laurence Supply of handbags and purses from China including £603,548.58 customs duty. The extent to which that was correct turned in summary on whether the relevant customs classification was the one which applied to handbags and purses with an outer material predominantly of "plastic sheeting" (with a duty rate of

9.7%), as HMRC argued, or the classification in respect of "textile materials" or "other" (with a duty rate of 3.7%), as Laurence Supply argued. In accordance with a relevant Explanatory Note the question was whether [63] "the resultant outer layer being visible to the naked eye has the same visual appearance as an applied layer of manufactured plastic sheeting". As regards "Item C" being one sort of handbag the FTT examined, the FTT considered the leatherette on that did not meet that description and that HMRC had misclassified it under the code for "plastic sheeting" (reducing the C18 by £2,064.36). The FTT thus allowed the appeal in part, but was not satisfied Laurence Supply had met the burden on it to show the classifications in respect of the remainder of the goods covered by the C18 were wrong.

Upper Tribunal's jurisdiction on appeal

4. An appeal to the Upper Tribunal from a decision of the First-tier Tribunal can only be made on a point of law (s11 of the Tribunals, Courts and Enforcement Act 2007. It is therefore the practice of the Upper Tribunal in this Chamber only to grant permission to appeal where the grounds of appeal disclose an arguable error of law on the part of the FTT.

Grounds of appeal and Decision

5. Laurence Supply now raise two grounds of appeal which I will describe and address in turn. (The grounds do not reflect those which were advanced in the permission to appeal application to the FTT and therefore the grounds the FTT addressed in its refusal of permission decision.)

Ground 1 – Apparent Bias

6. Save for the further point mentioned at [18] below, the applicant's oral case did not add anything further to the points made in the written application. Having considered the matter again, my decision remains that the ground is not arguable and that permission should be refused for the same reasons as were set out in my earlier refusal of permission decision. For convenience I replicate those at [7] to [17] below with some minor modifications.

7. The application raises the following matters under this ground.

8. First, that after the hearing and prior to the decision being released, Mr Mark Gordon [*being the director of the appellant and sole witness of fact for the appellant*] and the judge "met twice on 8 July 2023, during a religious ritual and social gathering, chatting for over an hour". The application maintains that "Whilst the case was not discussed" Mr Gordon was "very uncomplimentary" about the school at which his child and the judge's child attended "subsequently learning that the judge was a school governor".

9. Second, that three days later, on 11 July 2023, Mr Gordon's child and the judge's child travelled together for one month on a school trip abroad which consisted of five students from the school as part of a larger group. The application states "It is understood they spent considerable time together." The application recognises "there is no positive suggestion the two students talked about the case" but nevertheless goes on to submit that a:

> "…fair-minded observer could not be certain that post-hearing occurrences did not lead to some form of unintentional or subconscious bias which influenced the FTT's reasoning process on the issues when it came to their decision".

10. The relevant test for apparent bias as set out in *Porter v Magill* [2002] 2 AC 357 (at [103]) is:

> "whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the judge was biased."

11. In *Locobail v Bayfield Properties Ltd* [2000] QB 451 the Court of Appeal put the question as whether the observer "would on the correct facts reasonably apprehend that the judge has not or will not bring an impartial mind to bear on the adjudication of the case…". It explained that the reasonableness of such apprehension:

> "…must be assessed in the light of the oath of office taken by the judges to administer justice without fear or favour; and their ability to carry out that oath by reason of their training and experience. It must be assumed that they can disabuse their minds of any irrelevant personal beliefs or predispositions. They must take into account that they have a duty to sit in any case in which they are not obliged to recuse themselves."

12. The Court of Appeal (emphasising the fact-sensitive nature of the question) went on nevertheless to list a number of bases which they could not conceive as constituting a valid basis of objection but then continued:

> "By contrast, a real danger of bias might well thought to arise if there were a personal friendship or animosity between the judge and any member of the public involved in the case; or if the judge were closely acquainted with any member of the case, particularly if the credibility of that individual could be significant in the decision of the case;…"

13. As to the correct facts known to the fair-minded observer I am in no position to establish whether any of the factual allegations concerning the "post-hearing occurrences" as the application describes them are correct. But if I were to assume they were, then putting the application at its highest, the point would be that the judge had somehow perceived Mr Gordon's "very uncomplimentary" comments about the school as a critique of the judge's school governorship. However even then I would not consider that circumstance then meant it was arguable there was apparent bias in the judge continuing to be part of the panel which issued the decision.

14. The nature of the comments (concerns about the state of a school by one school pupil parent to another, a not altogether uncommon occurrence, and which could not have been explicitly directed towards the judge's role as governor as the application says this was only discovered by Mr Gordon subsequently), and the context in which they were made, mean the comments would not come anywhere close to engendering the sense of "animosity" referred to in *Locobail.* Similarly there is nothing in the nature and extent of personal contact which suggests there was a "personal friendship" or that the judge and Mr Gordon could be said to be "closely acquainted" (and furthermore it is not apparent that this was a case where Mr Gordon's credibility was significant).

15. As to the fact of such perception of criticism, the extent of the judge's personal contact with Mr Gordon, or that their children spent "considerable time together on a school trip", none of these post-hearing circumstances whether alone or together would mean it was arguable that a fair-minded observer would conclude "that there was a real possibility the judge was biased". The fair-minded observer would be mindful of the oath the judge had taken. They would rightly expect the judge to set aside any perception of criticism of this nature, or passing acquaintance (formed through being parents whose children went to the same school and on the same school trip, or through attendance at the same religious gathering) in order to properly fulfil the judge's judicial role on the tribunal panel.

16. Looking at the matter from the corresponding perspective of whether, following any criticism perceived from Mr Gordon's comments, the judge ought to have recused themself, the observations of the Court of Appeal in *Triodos Bank N.V. v Dobbs* [2005] EWCA Civ 468, would suggest that recusal would have been the wrong course. In that case Chadwick LJ was invited to recuse himself on the basis of criticisms which included personal criticisms against him regarding his conduct in relation to the applicant's related proceedings. Chadwick LJ explained (at [7]):

> "It is always tempting for a judge against whom criticisms are made to say that he would prefer not to hear further proceedings in which the critic is involved. It is tempting to take that course because the judge will know that the critic is likely to go away with a sense of grievance if the decision goes against him. Rightly or wrongly, a litigant who does not have confidence in the judge who hears his case will feel that, if he loses, he has in some way been discriminated against. But it is important for a judge to resist the temptation to recuse himself simply because it would be more comfortable to do so. The reason is this. If the judges were to recuse themselves whenever a litigant – whether it be a represented litigant or a litigant in person – criticised them (which sometimes happens not infrequently) we would soon reach the position in which litigants were able to select judges to hear their cases simply by criticising all the judges that they did not want to hear their cases. It would be easy for a litigant to produce a situation in which a judge felt obliged to recuse himself simply because he had been criticised – whether that criticism was justified or not…"

17. For the reasons above, even if the facts advanced in the application are assumed to be true they would not disclose an arguable error of law in terms of apparent bias.

18. Mr Brown's oral submissions also invited me to add into the consideration of apparent bias the point advanced below that the judge had refused to allow Laurence Supply's expert's samples to be examined. However as explained below (at [28]) any such refusal was consistent with the FTT having regard to the sample's relevance in view of the scope of the case. A fair minded and informed observer, having considered the facts, would not, in my view, conclude from any such refusal there was a real possibility that the judge was biased but would conclude the judge was case-managing the matter according to their view of the issues in the case. Nor, as a refusal that was reconcilable with the FTT's view of the scope of the case, would it alter in any away the analysis above that the "post-hearing occurrences" had not given rise to any apparent bias.

19. **Permission to appeal in relation to Ground 1 is therefore refused.**

Ground 2 – *Edwards v Bairstow* challenge to finding that Appellant had only been successful in respect of Item C (paragraphs 59-65 of the FTT Decision)

20. Under this ground, Laurence Supply's written submissions, as developed orally by Mr Brown, challenge three sets of findings by reference to certain paragraphs in the FTT Decision as amounting to errors of law on the basis the findings are (1) based on a finding of fact or inference from fact which is perverse or irrational; or (2) lacking in evidence or (3) made by reference to irrelevant factors or without regard to relevant factors.

21. In further support for this ground Laurence Supply sought to rely on a witness statement from Mr Mark Gordon which amongst other matters exhibited a set of purchase orders in respect of handbags for its customer River Island and was said to represent some 70% of its turnover during the relevant period. It is accepted that Laurence Supply had these orders in its possession at all times. Foreshadowing HMRC's objection to adducing this evidence now Laurence Supply's application attaching the new evidence explained that Laurence Supply "…did not produce these documents at the FTT hearing as it understood HMRC's case was binary i.e. if it could prove Item C qualified for 3.7% duty rate, then all other items, being made from the same material would also be classified as such and the assessment would fall away." The purchase orders detail the composition of the goods ordered as being "100% Polyurethane". As well as pointing out the evidence could have been adduced earlier, HMRC submit the evidence is irrelevant. It revealed nothing about the visual appearance of the products and whether they have the appearance of manufactured plastic sheeting. The orders were not linked to the imported goods on the C18. For the purposes of this application for permission, I will proceed, in the applicant's favour, on the assumption that the purchase orders would be admitted. Mr Brown fairly accepted that the orders were minor evidentially (they just added to the overall picture and showed the goods passed the first hurdle of being goods made out of polyurethane but were not conclusive of the 3.7% duty classification).

Error in Paras. 10, 50 and 55 – that the only items before the FTT were a light tan coloured leatherette handbag and a blue suedette purse.

22. The challenged findings refer to the following:

> (1) At [10] of the FTT Decision the FTT said: "The only items before the Tribunal for physical inspection were a light tan coloured leatherette handbag and a blue suedette purse" [item C and item D[1]].
>
> (2) At [50] the FTT recorded "The other items examined by Professor Bush had not been made available to either HMRC or the Tribunal" .
>
> (3) At [55] the FTT found after discussing Item C that "…the rest of Professor Bush's evidence was of no assistance to us. As set out above, the other items examined by him were not before the Tribunal and so we could not consider what they looked like."

23. Laurence Supply argues the FTT was wrong to find as it did because all the handbags in the report of Professor Bush (the appellant's expert) were in fact at the FTT, but the judge had

[1] (It is accepted that no issue arises regarding Item D - the FTT went on to explain item D classified to 3.7% code, HMRC had accepted this before the C18 and it did not form part of C18.)

refused to allow them as evidence, even though the appellant was previously directed by the FTT to bring them to the hearing.

24. In response to the points made in my refusal on the papers that the allegation above was unevidenced, Laurence Supply provided a witness statement from Mr Mark Gordon. This attached the FTT direction requiring the exhibits to be brought and set out Mr Gordon's account of what happened; in summary that he brought the samples in as directed but the appellant and HMRC refused to let him show them.

25. Mr Brown submitted that Mr Gordon, as a litigant in person expected to be able to show the samples and tell the tribunal the link between those bags and the C18 imports (he accepted this was not covered in the written witness statements that were before the FTT). Mr Brown said in oral reply that on instructions that Mr Laurence Gordon recollected during the applicant's opening attempting to show the judge the samples that had been brought to the tribunal but that the judge refusing saying something one the lines of "You cant show those" with which HMRC agreed. No note was taken of the hearing and the applicant had not asked for the tribunal panel's notes. (As mentioned above this ground was not raised with the FTT when permission was sought before it so the FTT has not had the opportunity to provide its account of what happened.)

26. While HMRC challenge the above account, Ms Vicary, who as mentioned did appear for HMRC below, made clear she was not giving evidence. HMRC's overall submission was that when Laurence Supply's account was put in the surrounding context it did not help the applicant to establish any arguable error of law on the part of the FTT. That context was that the only item HMRC considered relevant to the imported goods (i.e. the imports from China between 6 May 2014 and 4 May 2017 on the C18) was Item C which its officer had uplifted on her 1 February 2017 visit to the applicant's premises. HMRC was satisfied, having had the chance to examine it before the hearing, that Item C corresponded to the item C referred to the sample exhibited with Professor Bush's report. As HMRC had not uplifted any other items there was no similar issue of correspondence between items accepted to be representative of the C18 imports and the samples exhibited to Professor Bush's report. The other samples that had been exhibited were therefore not relevant.

27. Taking Mr Mark Gordon's account and Mr Laurence Gordon's account at face value the FTT had directed the exhibits to Professor Bush's report were to be brought to tribunal (which they were) but that the FTT did not allow them to be looked at.

28. It is in my view possible however to read the paragraph references to sample unavailability as speaking to the evidence that was before the tribunal in the sense of evidence that was adjudged to be relevant to the scope of the case. In other words the FTT was referring not to what had physically been brought to the tribunal but what the FTT to be considered to be within the scope of the appeal as argued for by the parties. That is also consistent with Laurence Supply's argument in its latest application (that the purchase orders were not adduced before - because the focus on Item C). I will address the further point as to whether any error arose in the FTT not looking at the case more widely than Item C given Laurence Supply's lack of representation the hearing below.

29. However, even if it were to assumed that the FTT was referring to what samples were physically available to the tribunal (and therefore that the FTT wrongly according to Laurence Supply's account recorded the non-availability of such samples) this would not ultimately help the applicant succeed in its appeal. In particular it would not address the gap the FTT identified in showing the make up of the goods which were within the C18. That gap would remain even if the FTT considered the other samples had been made available to the FTT given the lack of evidence showing the exhibit samples were in fact representative of the goods encompassed by the C18. To the extent Mr Brown submits that Mr Gordon would have covered that in his oral evidence if given the chance then I do not think that would provide an answer. Even to the extent the applicant's case was that its other goods were similar to Item C (the sample that was before the FTT, and in respect of which the applicant sought to show the leatherette in such other goods were typical of Item C by means of photographic evidence) the applicant was unsuccessful in persuading the FTT that those were the same as or made from the same material as Item C for all the reasons it set out at [79].

30. Nor would the River Island purchase orders, now sought to be adduced assist in this regard. As Ms Vicary identified they do not help on the "naked eye" test and it has not been established the orders link to the imported goods referred to on the C18.

Error in Paras. 32 and 33 – When setting out the evidence of Mrs. Wilkes for HMRC, the FTT failed to take into account that both parties accepted that the six samples shown to her, which she did not uplift in the meeting at the warehouse all had the "appearance of a PU [Polyurethane] LEATHER *BAG").*

31. The context for the applicant's point is as follows. HMRC's Amended Statement of Case ("ASoC") (which had not been put before me at the papers stage of the application but was before me at the oral renewal hearing) contained a section detailing HMRC's visit to the appellant on 1 February 2017. In particular paragraph 28 detailed the goods made available to HMRC by the applicant during the visit – recording what the item's label stated and in the case of items A,B and E-H that the item had the "appearance of a PU leather…" handbag/bag. The application goes on to argue that a finding that a total of seven items fell within the lower duty rate instead of one (Item C), should potentially have significant effect. In his oral submissions Mr Brown argues the significance of the point needs to be viewed against the backdrop of there being no individual sample out of the total 15 (the 8 HMRC had seen plus the 7 in Professor Bush's report) before the FTT which was shown to be classified at the higher duty rate of 9.7%. Mr Brown also submitted the fact the appearance was recorded by HMRC's officer should not be ignored.

32. In agreement with Ms Vicary however, the fact the appearance had been noted as a "PU leather bag" did not address the "naked eye" test and the specific question relevant to classification namely whether the outside layer had the "visual appearance of manufactured plastic sheeting". Given that lack of relevance there could in my view be no error of law in the FTT failing to take account or record that it had taken into account such description. Mr Brown's point that no sample was shown to be 9.7% or that the note of appearance was recorded by HMRC's officer does not make something that was irrelevant, from the outset, to the necessary visual test, any less irrelevant.

33. Moreover, even if it could be said the FTT had made any error in failing to take account or record its taking account of such notation of appearance, remedying that error would not lead to any different result in Laurence Supply's favour given the notation did not address the specific relevant "naked eye" test and in view of the other more specific evidence pointing the other way. (As Ms Vicary pointed out, Ms Wilkes' evidence did specifically address the relevant naked eye test. That stated at [46]: "The most striking aspect of the site visit to me, was that all of the bags and purses in stock imported by the Appellant were made from polyurethane and other than the two items partially made of imitation suede, had the visual appearance of plastic sheeting.")

Error in Paras. 82 and 87 – that, in effect, the Appellant had not made a positive case about the remaining goods.

34. The application explains the case was about an appeal against the assessment in its totality. It argues that it must have been Laurence Supply's case that the goods were all made of the same material, or there would be no sense in bringing the appeal: the FTT confirmed this point was made in closing; it was also made in Laurence Supply's skeleton argument. The application also mentions that the fact that Laurence Supply was a litigant in person should also have been taken into account together with the entirety of Professor Bush's report in respect of the "absent" samples he examined. It is argued that the fact that all the samples he examined fell within the lower duty rate would have been more persuasive in a decision about the quantum of the assessment.

35. In his oral submissions Mr Brown also argued the FTT had effectively misdirected itself by restricting itself to the question it posed at [82] and [87] that the appellant:

> "had not established that *all* the Goods looked like either Item C or Item D". Indeed, Laurence Supply (acting clearly honestly and fairly) did not go so far as to suggest that this was the case".

36. The FTT ought, Mr Brown argues, to have turned its mind to the true question underlying the appeal (irrespective of how Laurence Supply – who were not legally represented at the hearing- had argued its case). That was whether Laurence Supply had shown that the imported goods were of the 3.7% classification.

37. Thus in summary it is argued:

> (1) the FTT erred in stating Laurence Supply had not made a positive case that the remaining goods were classified to the lower rate when it had done exactly that,
>
> (2) the FTT ought not to have restricted itself to the treatment of Item C but consider more broadly whether Laurence Supply had met its burden in showing the C18 was wrong.

38. Neither argument amounts, in my view, to any arguable point of law.

39. Firstly there was no error in the FTT misunderstanding or misstating that Laurence Supply's case was about all of the goods not just the small proportion reflected by Item C. It well understood Laurence Supply's case was that if it succeeded on item C that it succeeded on the rest of the goods (on the basis of an argument that the material in the other goods looked

like those used for Item C). The FTT was not, as Mr Brown sought to argue, criticizing Laurence Supply for failing to *make* a positive case. At [8] it recorded Laurence Supply's argument that the goods were all made either out of suedette (to be classified as "textile material") or "leatherette" or "leather look" (to be classified as "other"). It obviously understood that it was being argued that the leather look/ leatherette in item C reflected the material of other goods. The FTT's assessment however was that that positive case was not made good because of the absence of evidence (for instance because of the limitations of the photographic evidence as it explained at [79]) and because of a lack of evidence linking the goods to those imported as referred to in the C18. (As regards the other samples in Professor Bush's report, as already mentioned, even if the FTT had, gone beyond the scope of case Laurence Supply had advanced and looked at those, there was still an evidential gap in terms of satisfying the FTT that such samples were representative of imported goods referred to in the C18).

40. Secondly there was no error in the FTT not looking beyond the way Laurence Supply had argued its case (by reference to Item C). It was not for the FTT in a case which had been subject to detailed rounds of pleadings and opportunities for provision for information to tell a taxpayer how to run its case or alert it to risks in terms of evidential gaps should the FTT not be satisfied as to the samples advanced being representative of all the remaining goods covered by the C18. As the FTT set out at [81] "the importance of the need to establish the classification of the other Goods, or at least the extent to which they correspond to Item C or Item D has been apparent throughout this appeal".

41. There was also no error of approach in [82] in the FTT not standing back to look at the essential question of whether Laurence Supply had met the burden of showing the C18 goods were classified at the lower rate; the FTT plainly had that in mind throughout. At the outset it identified the key issue at [9] when it said "It follows that the Appellant will succeed in full if it can establish on the balance of probabilities that all of the goods were either Handbags or Purses with a classification of either "textile materials" or "other". Its subsequent reasons (at [86] to [93]) for its conclusion on quantum referred to Laurence Supply's points not establishing the classifications were wrong (for instance at [92] where it put the question as being for Laurence Supply to "establish, on the balance of probabilities, which of the imports within the C18 were wrongly classified.")

42. Laurence Supply also say that to the extent it is said against it that it had put its case as being confined to Item C (to the effect that the "absent" samples were not relevant) then that limitation of scope arose from the way HMRC had put the case. In his reply Mr Brown invited me to consider how the ASoC from [75] would be looked at from the perspective of a litigant in person and submitted it was understandable for Laurence Supply to have come to the conclusion that the case was all about item C.

43. Moreover it is argued that it was not until HMRC's skeleton argument for the FTT hearing was received that it was mentioned (in a short paragraph (at [67]) towards the end of that) that HMRC were not accepting the appeal against the C18 would succeed, even in the event Item C were classified at the lower rate in line with Laurence Supply's case.

44. I have considered the pleadings. Having done so I conclude it ought to have been clear, from an early stage, even to an unrepresented party, that HMRC were not accepting that if

Laurence Supply won on the classification of Item C that then resolved the correct C18 amount in respect of all the other goods (in other words that HMRC was accepting that if Laurence Supply won on the classification of Item C that that then meant all the C18 imports were 3.7%).

45. The ASoC made clear for instance at [83] : "The Appellant has failed to demonstrate that the imports covered by the C18 are not classifiable to plastic sheeting". The ASoC also highlighted the lack of purchase orders, design specifications, marketing materials or written evidence to support Laurence Supply's claim. Laurence Supply's Amended Grounds of Appeal (filed at a time when it was represented by solicitors) specifically stated the appellant had supplied all the documents they had intended to supply.

46. The fact resolution of the classification of Item C was not determinative from HMRC's point of view was also reflected in HMRC's skeleton argument. That identified at [8(1)] the classification of Item C as an issue but also (at [8(2)] the question:

> "Further and in any event what is the proper quantum of the C18? The answer to this question will require the Tribunal to consider whether the Appellant is able to discharge the burden of establishing that, during the relevant periods, 87% of its imported goods did conform to Commodity Code 4202 22 90 - handbags with an outer surface of textile materials, attracting a duty rate of 3.7%; or whether, as the Respondents contend, the evidence is so lacking that, irrespective of the answer to question 1, above the Appellant remains unable to demonstrate that its imports have been correctly declared." (emphasis added)

47. The skeleton argument went on to argue in a section on quantum at [61] to [67] that it did not matter how Item C was classified as Laurence Supply had failed to "make any meaningful connection between : Item C, or any sample viewed by Professor Bush; and the goods that is actually imported" and that that failure was fatal to the entire basis of the appellant's appeal..".

48. I do not accept also that Laurence Supply was somehow wrongly led by HMRC into framing the case by reference to Item C. The burden which lay on it in relation to the correct classification of *all* of the C18 goods was clear from the outset. To the extent Laurence Supply wished to rely on the representative nature of the other samples in terms of linking them to the C18 imports it was for it to put evidence before the FTT explaining that. For their part HMRC had positively drawn attention to both concerns over the correspondence of Item C to the rest of the goods and the lack of evidence as to the goods encompassed by the C18. In any case there was no error on the FTT's part. It rightly dealt with the case as argued before it but the appeal ultimately failed in respect of the other goods because of insufficient evidence regarding the classification of such goods.

49. In that regard it is worth highlighting that even if the errors advanced did amount to errors of law they would not, in the end, help Laurence Supply secure a better result on appeal. Even if it were assumed the FTT had erred in understanding the scope of Laurence Supply's case or in not looking beyond that scope on its own initiative, and even if the further samples brought in were found to be classified at the lower rate, then the same evidential concerns, as Ms Vicary's submissions highlighted, of showing that such classifications extrapolated to the C18 goods remained. The same conclusion would inevitably be reached given the state of evidence (and that would also be true even if the further evidence on purchase orders were admitted given the irrelevance of that.)

50. **Permission to appeal Ground 2 is refused.**

Conclusion

51. For the reasons set out above, I am not satisfied either of the two grounds advanced disclose any arguable error of law in the FTT Decision. **Permission to appeal is therefore refused.**

Signed: **SWAMI RAGHAVAN** **JUDGE OF THE UPPER TRIBUNAL**	**Date: 24 January 2025**
Issued to the parties on: 28 January 2025	