

[2011] UKFTT 615 (TC)



TC01457

Appeal number: TC/2011/00156

Appeal against the surcharge imposed for the late payment of tax - appeal dismissed – Appellant had no reasonable excuse for the late payment

FIRST-TIER TRIBUNAL

TAX

MRS H PANESER

Appellant

- and -

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

Respondents

**TRIBUNAL: S.M.G.RADFORD (TRIBUNAL JUDGE)
M.TEMPLEMAN**

Sitting in public at 8-10 Howard Street, Bedford MK40 3HS on 9 August 2011.

The Appellant failed to attend the hearing

Ms K Weare for the Respondents

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DECISION

1. The Appellant failed to attend the hearing The Tribunal clerk tried to telephone the Appellant but her husband was unable to say where she was.
- 5 2. The Tribunal decided that under Rule 33 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 it was satisfied that the Appellant had been notified of the hearing and that it was in the interests of justice to proceed with the hearing.
- 10 3. This is an appeal against the surcharge imposed for the late payment of tax for the tax year ending 5 April 2009.
4. A paper return was received on 20 October 2009 and was processed on 9 November 2009. Following this a tax calculation was issued to the Appellant showing a tax liability of £8,934.99.
- 15 5. In addition a statement was sent to Messrs SZ Khan and Co, the Appellant's agents, on 6 December 2009 and showed that £8934.98 was payable by 31 January 2010.
- 20 6. The Appellant claimed that she had received a letter from HMRC stating that the payment on account for 31 January 2010 was £0. This confused her as if she had known that tax was due to be paid she would have written to HMRC before the deadline explaining that she had lost her job and needed time to pay.
7. The Appellant claimed that she was on Jobseekers Allowance with no benefits paid and relied on her husband to support her.
- 25 8. The matter was due to be heard on 17 May 2011 but the Appellant failed to appear because of a bad back. Judge Gandhi therefore issued a direction that the Appellant should send to the Tribunal any evidence she wished to rely on to demonstrate financial difficulties and the loss of her job for the period 1 June 2009 to 28 February 2009 no later than 14 days before the next hearing.
- 30 9. Further the directions stated that the Appellant was to send to the Tribunal copies of any correspondence between her and her accountant in relation to the balancing payment no later than 14 days before the hearing.
10. The Appellant failed to comply with these directions and no evidence was sent to the Tribunal.

Appellants Submissions

- 35 11. The appellant submitted that the HMRC letter dated 18 November 2009 stating that her payments on account had been reduced to nil had confused her.

HMRC's Submissions

12. HMRC submitted that not only had the Appellant been issued with a tax calculation on 9 November 2009 showing her liability and the due date for payment but on this communication there was a warning that surcharges would be imposed for late payment.

13. Further on 6 December 2009 HMRC issued a statement of account to the agent authorised by the Appellant to manage her tax affairs. The statement clearly showed the liability due for 2008/2009 and the due date for payment of 31 January 2010.

14. Ms Weare stated that the tax had arisen largely as a result of a capital gain arising on a property which had been sold.

Findings

15. The Tribunal found that the Appellant had no reasonable excuse for the late payment of the tax due.

16. She had not complied with the directions of Judge Gandhi and produced further evidence in order to discharge her burden of proof.

17. She had failed to attend the hearing in order to give evidence in person.

18. She had failed to telephone HMRC before the due date to explain her difficulty in paying the tax although both she and her agent had been informed of the amount due well before the due date of 31 January 2010.

Decision

19. The appeal is dismissed.

20. 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.



TRIBUNAL JUDGE
RELEASE DATE: 7 September 2011