



TC06392

Appeal number: TC/2015/04375

INCOME TAX – failure to file return by due date – directions issued – respondents fail to comply – respondents barred from taking part in the proceedings – application to lift Barring Order - application refused

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

WLADYSLAW MATEJA

Appellant

- and -

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

TRIBUNAL: JUDGE JENNIFER A TRIGGER

DECISION

On 27 September 2017 the Respondents made Application to lift the Barring Order endorsed and issued on the instruction of Judge Trigger on 15 September 2017.

1 The Application is hereby refused.

The Background

2 On 22 May 2017 the Tribunal considered the appeal of Wladyslaw Mateja (the Appellant) 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 9 July 2015 (with enclosures) and HMRC's Statement of Case (with enclosures) acknowledged by the Tribunal on 9 August 2017.

3 On 31 May 2017 the Tribunal issued Directions to the Appellant.

4 The Appellant responded to those Directions on 26 June 2017 and a copy of the Appellant's response was sent to the Respondents the same day. The Respondents were asked to respond within 14 days. The Respondents did not respond within the time limit given or at all.

5 On 21 July 2017 the Tribunal issued Directions to the Respondents to provide a response no later than 12 noon on 3 August 2017 to HM Courts & Tribunals Service, (First-tier Tribunal) (Tax Chamber), PO Box 16972, Hagley Road, Birmingham, B16 6TZ as to whether the appeal had lapsed in the light of the facts as pleaded or in the alternative whether the Respondents intended to continue to oppose the appeal.

The order was marked DIRECTIONS on the face of the document and, in the narrative, the words "IT IS DIRECTED THAT:" were clearly shown. The Directions stated that if the Respondents failed to comply with the Directions they could be barred from taking further part in the proceedings or part of them, without further reference.

6 The Directions together with a letter were sent to the Appellant and to the Respondents by surface mail on 21 July 2017. The letter contained the words "Please find enclosed a copy of a direction issued by the Tribunal". In addition, the Tribunal Service sent the Respondents an email on 21 July 2017 also. The email contained the words – " Subject Decision - TC 2015 04375."

7 The Respondents did not comply with the Directions. The Tribunal issued a Barring Order on 15 September 2017. The Barring Order gave the Respondents a right to apply to the Tribunal within 28 days after the date of issue of the Barring Order for the bar to be lifted.

8 The Respondents by Application Notice dated 27 September 2017 made a request for the bar to be lifted. The application was made with the 28 days of the issue of the Barring Order.

The Respondents Case

9 The Respondents pleaded that:

"The original Direction sent to HMRC on 21 July 2017 was headed Decision. See screen shot of original email attached. Due to different operating procedures in dealing with Decisions, Directions and Correspondence coming from the Tribunal Service: the email headed Decision was placed in the decision box to wait out the 56 day hold over period pending a further application to appeal. This incorrect heading of the email by the Tribunal Service led to HMRC not responding to the Direction issued on 21 July 2017."

Reasons for the Tribunal's Decision

The Tribunal found that:

10 the Order dated 21 July 2017 was headed DIRECTIONS and the narrative contained the words "IT IS DIRECTED THAT."

11 the Directions were issued with a letter dated 21 July 2017 which identified that a copy of the Directions were attached.

12 the fact that the email from the Tribunal Service contained the word Decision did not, in the opinion of the Tribunal, displace the facts as found in paragraphs 10 and 11 above.

13 the Tribunal Service was not privy to the internal procedures adopted by the Respondents for the handling of mail received and its classification, so far as the Tribunal could ascertain. These matters were administrative and adopted for the benefit of the Respondents only.

14 In accord with Rule 8 (3) (a) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 the Respondents are hereby barred from taking further part in the proceedings or any part of them.

15 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.

**JENNIFER A TRIGGER
TRIBUNAL JUDGE**

RELEASE DATE: 13 MARCH 2018

© CROWN COPYRIGHT 2017