[2018] UKFTT 437 (TC)

TC06627

Appeal number: TC/2017/07847

CGT –late delivery of return by non resident on sale of UK house – penalty- reasonable excuse: ignorance of the law –whether penalty had to be assessed by a named officer: **Khan** ***considered***

Procedure – procedural irregularity – decision not set aside

FIRST-TIER TRIBUNAL
TAX CHAMBER

BARRY GILBERT **Appellant**

- and -

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

TRIBUNAL: JUDGE CHARLES HELLIER

The Tribunal determined the appeal 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 26 October 2017 (with enclosures), HMRC's Statement of Case (with enclosures) acknowledged by the Tribunal on 30 April 2018, the Appellant's Reply dated 1 May 2018 and the Appellant's accountants' letter of 24 May 2018

DECISION

Preliminary matters

(i) Permission to appeal

1. On 20 June 2018 the tribunal released a summary decision in this appeal, and on 26 June 2018 a supplementary Note which addressed two arguments made by the taxpayer's accountants in a letter of 24 May 2018, consideration of which had been omitted from the summary decision.

2. On 3 July 2018 Mr Gilbert's accountants wrote seeking a full decision and permission to appeal to the Upper Tribunal.

3. Rule 35(4) of the tribunal's rules provides that if the tribunal has provided only a summary decision, a party may apply for full written findings

> "and must do so before making an application to appeal ...".

4. This document contains full findings and fact and reasons for the decision. Mr Gilbert may therefore, on receipt, apply for permission to appeal. That requires the resubmission of his application for permission to appeal (within 56 days of the release of this document). In the circumstances of this appeal that seems like needless bureaucracy - but I fear it is necessary to satisfy the requirements of the Rules because I do not consider that I have the power to set aside the operation of Rule 35(4).

(ii) A further argument

5. In their letter of 3 July 2018 Mr Gilbert's accountants seek to raise a further argument: namely that HMRC had on occasion sent Mr Gilbert e-mails entitled "help in paying taxes for landlords".

6. I accept that this is something which could have been relevant to the question of whether Mr Gilbert might reasonably have expected HMRC to give warning of changes in the law affecting non-resident landlords, and accordingly could have been relevant to whether or not he had a reasonable excuse for his failure to make a return in time, and therefore relevant to the outcome of the appeal.

7. However, I fear that it is too late to raise that argument now because the decision has been made.

8. I observe that if it had been raised earlier, its proper consideration would in my view have required further evidence from Mr Gilbert as to the contents and frequency of those e-mails, and the extent to which he read them and relied upon them. A just and fair appreciation of that evidence in my view would have required an oral hearing in which HMRC would have been given a chance to cross-examine Mr Gilbert and to address this evidence. All that would have meant re-classifying the appeal so that it

was no longer to be a Default Paper case. None of that was done, and none of it can now be done.

9. As a result I do not consider that argument in this decision.

(iii) Set aside

10. Mr Gilbert's application for permission to appeal could also be taken to be an application to set aside the decision.

11. Rule 38 of the tribunal's rules provides that the tribunal may set aside a decision and remake it if:

(a) the tribunal considers it in the interests of justice to do so, and

(b) one of the conditions in rule 38(2) is satisfied.

12. Those conditions are:

(a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or party's representative;

(b) a document relating to the proceedings was not sent to the tribunal at an appropriate time;

(c) there has been some other procedural irregularity in the proceedings; or

(d) a party, or a party's representative, was not present at a hearing related to the proceedings.

13. In the Note of 26 June 2018 I indicated that the failure to deal in the summary decision with the arguments raised in the appellant's accountants' letter of 24 May 2018 'might' be a procedural irregularity for these purposes. I now believe it was such an irregularity: it was of the same nature as the irregularities referred to in paragraphs (a) and (b) of Rule 38(2), and the failure to take the letter into account *could* have affected the determination of the appeal.

14. However, Rule 38 (1) requires two conditions to be satisfied before a decision may be set aside: there must both be the satisfaction of one of the conditions in Rule 38(2), and it must be in the interests of justice to set aside the decision.

15. Had I accepted the arguments made in a letter of 24 May 2018, it would have been in the interests of justice to set aside the decision because that procedural irregularity would have resulted in a wrong (unjust) outcome. But I do not accept those arguments (for reasons set out below and in the Note). Had the arguments been considered at the time of the summary decision the result would have been the same. As a result I do not consider that an injustice arises to the appellant as a result of the irregularity. I therefore cannot set aside the decision.

The Appeal

16. Mr Gilbert appeals against penalties of £400 assessed under Schedule 55 Finance Act 2009 for the late of delivery of a non-resident capital gains tax return (a "NRCGT return").

The legislation

17. Finance Act 2015 inserted provisions into the Taxation of Chargeable Gains Act 1992 ("TCGA") which brought into charge to CGT gains made by non residents on the disposal of interests in residential property in the UK. The same Act inserted sections 12ZA to 12ZN into Taxes Management Act 1970 ("TMA") with effect for disposals made after 6 April 2015. These new provisions required a non resident taxpayer to make of a NRCGT return in relation to such a disposal within 30 days of the completion of the disposal:

> "S12ZB NRCGT return
>
> (1) Where a non-resident CGT disposal is made, the appropriate person must make and deliver to an officer of Revenue and Customs, on or before the filing date, a return in respect of the disposal.
>
> (2) In subsection (1) the 'appropriate person' means –
>
> (a) the taxable person in relation to the disposal....
>
> ...
>
> (8) The 'filing date' for an NRCGT return is the 30th day following the day of the completion of the disposal to which the return relates. But see also section 12ZJ(5)."

18. These new TMA provisions were, in the field of personal taxation novel in two respects: first that they required a specific return for the disposal rather than its declaration in a normal self assessment return together with all other income and gains, and second that they required the return not to be made only after the receipt of a notice from HMRC requiring it to be made, but to be made automatically.

19. .Schedule 55 FA 2009 provides penalties for late delivery of such a return. .Paragraph 1(1) of Schedule 55 makes a person liable to a penalty if they fail to deliver a return of a type specified by the due date. With effect from 26 March 2015, a NRCGT return under s 12ZB of TMA 1970 was added to the Schedule by Finance Act 2015 section 37 and Schedule 7 paragraph 59.

21. Paragraph 3 of Schedule 55 makes a person liable to a £100 penalty on a taxpayer if the return is late; paragraph 5 imposes a tax-geared penalty of 5% if the return is 6 months late, but with a minimum penalty of £300;. Paragraph 18 deals with the assessment of the penalties.

20. The legislation provides that a taxpayer may be relieved from a penalty if he had a reasonable excuse for the failure[1] which gave rise to the penalty. And paragraph 16 Sch 55 permits HMRC (or where HMRC's decision is flawed, the tribunal) to reduce the penalties for special circumstances.

21. The issues in this appeal are whether paragraph 23 or paragraph 16 can avail Mr Gilbert, and whether or not the penalty was invalid because it was improperly assessed.

The Facts

22. This much is uncontentious: Mr Gilbert was at material times non-UK resident. On 28 October 2016 he completed the disposal of a house in the UK. As a result of section 12ZB TMA he was required to submit a NRCGT return within 30 days after the completion of the sale. He submitted the return on 23 June 2017. It was thus some 7 months late. The amount for the penalties provided for in paragraphs 3 and 5 of schedule 55 for such late delivery were £100 and £300 respectively.

23. I find that Mr Gilbert has for many years lived in Israel. He had a house in the UK to which he returned for occasional visits, but in 2016 he decided to sell it.

24. I find that Mr Gilbert does not have easy access to a computer, and that he was unaware of the change in the law which required the submission of the NRCGT return at the time of completion and did not become aware of the obligation to make a return

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[1] Oddly, There are two provisions which do this, with, in this case, the same result:-

Paragraph 23(1) Sch 55provides:

(1) Liability to a penalty under any paragraph of this Schedule does not arise in relation to a failure to make a return if [the taxpayer] satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for the failure.

(2) for the purposes of sub-paragraph (1) -

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside P's control,

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and

(c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

and Section 118 TMA (2) provides:

"For the purposes of this act, the person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the board or the tribunal or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased…"

until his accountants started the preparation of his UK tax return for 2016/17. As soon as his accountants became aware of the obligation they arranged for the completion submission of the return.

The arguments for Mr Gilbert

25. Mr Gilbert's accountants, The Income Tax Return Service, make the following arguments on his behalf:

(a) No ordinary taxpayer who had lived abroad for 15 years, as Mr Gilbert had, could possibly have known of the change in the law;

(b) The new law was not widely publicised and affected only a few taxpayers;

(c) Mr Gilbert's lack of access to a computer meant that any online publicity given to the change by HMRC would not have been accessible to him;

(d) It would have been only fair for HMRC to have notified Mr Gilbert of this change in the law;

(e) Ignorance of a change in the law had been considered to afford a reasonable excuse in other tribunal decisions.

(f) In particular, in their letter of 24 May 2018, they ask the tribunal to consider the case of *Khan Properties Ltd v HMRC (2017)* in which they say it was decided that ignorance of the law can be considered positively when deciding whether a late filing penalty can be rescinded (by which I understand them to submit that it can be considered a reasonable excuse for a failure to do something).

26. In addition in their letter of 24 May 2018 The Income Tax Service submit that the penalty assessments are defective because the letter of 2 May 2017 advising Mr Gilbert of the first penalty was signed by the "NRCGT Team" and came neither from a named officer or from HMRC's computer. They say that the determination of a penalty must be made by a named officer. In this submission I take them to rely upon other aspects of the decision in *Khan.*

HMRC's argument

27. HMRC say that Mr Gilbert's lack of knowledge of the law is not a reasonable excuse. They point to the information available on the Gov.uk website and contend that Mr Gilbert had "an obligation to stay up to date with legislation affecting his activities in the UK". They say that there were no special circumstances which were uncommon or exceptional and which would allow a reduction in the penalty under paragraph 16.

Discussion.

28. Under the following headings I now consider: (a) paragraph 23: reasonable excuse, (b) paragraph 16: special circumstances, and (c) whether or not the penalty was invalid because it was improperly assessed.

(a) reasonable excuse

29. If a taxpayer has a reasonable excuse for a failure occasioning a penalty then para 23 Sch 55 (or s 118 TMA) provides that a penalty does not arise in respect of the failure.

30. There is no doubt that Mr Gilbert's ignorance of the law caused his failure to make a return and was an excuse for his failure. The question is whether it was a *reasonable* excuse.

31. One of the most widely accepted descriptions of what constitutes a reasonable excuse is that in *The Clean Car Co Ltd* 1991 VAT TR5695, where the tribunal said that whether or not a taxpayer had a reasonable excuse:

> "should be judged by the standards of reasonableness one would expect to be exhibited by a taxpayer who had a responsible attitude to his duties as a taxpayer, but who in other respects shared such attributes of the particular Appellant as the tribunal considered relevant to the situation ... thus though such a taxpayer would give reasonable priority to complying with his duties in regards to tax and would conscientiously seek to ensure his returns were accurate and made timeously, his age and experience, his health and the incidence of some particular difficulty or misfortune ... they all have a bearing on whether ...[he] had a reasonable excuse."

32. That description indicates a standard for reasonable behaviour which must be assessed assuming that a taxpayer gives a reasonable priority (rather than a paramount priority) to compliance with fiscal duties. A paramount priority for fiscal compliance would involve constant vigilance for any change in the law; a reasonable priority will be tempered in particular by having regard to other circumstances.

33. There has been some divergence of opinion among FTT judges as to whether ignorance of the law can found a reasonable excuse.

34. Thus Judge Mosedale in *Hesketh* [2017] UKFTT 871 (TC), a case concerning NRCGT returns, said:

> 81. Secondly, even assuming that *Neal* is still good and binding law on this Tribunal, I think (for the above reasons) that the exception [for complex or uncertain law] recognised in *Neal* was intended to be narrow: statutes must be interpreted with Parliament's intentions in mind. Parliament must make laws with the intention they will be obeyed. Therefore, it follows that Parliament must expect people to make an effort to acquaint themselves with the law. Parliament is unlikely to have intended those who don't comply with the law to be excused the penalty simply because they did not know the law: that would

encourage people *not* to make an effort to know the law (as they would be excused non-compliance with laws they didn't know about.)

82. So it follows that ignorance of the law cannot have been intended by Parliament (in general at least) to amount to a reasonable excuse for not complying with it. *Neal* recognised an exception for complex, uncertain law but (in line with Parliament's intent) if such exception exists at all, it must be a rare exception.

…

88. In conclusion, the normal rule that ignorance of the law is no excuse applies. While I recognise that the reality is that even just the statutory tax laws applicable in this country run to 1,000s of pages and no one can know it all (and I certainly do not), ignorance of the law is not a 'reasonable excuse' for failing to comply with it.

89. The appellants' ignorance of their liability to make NRCGT returns cannot amount to a reasonable excuse. It was the cause of their failure to make timely returns, but it does not excuse their failure. The obligation to file was not complex nor uncertain, nor was any complexity or uncertainty in the law the reason for their failure to file on time. They didn't file on time simply because they were unaware of the obligation to do so. Such ignorance of basic law is not a reasonable excuse.

35. And Judge Brannan came to a similar conclusion, although acknowledging certain exceptions for specialist, complex, or inaccessible law or law of uncertain application, after an extensive review of the authorities in *Hart [2018] UKFTT*.

36. On the other hand Judge Thomas came to a different conclusion, again in relation to NRCGT returns in *McGreevy [2017] UKFTT 690 (TC)* as did Judge Connell in *Saunders.*

37. But more recently the Upper Tribunal had this to say on the issue in *Perrin v HMRC* [2018] UKUT 156 (TC):

82. One situation that can sometimes cause difficulties is when the taxpayer's asserted reasonable excuse is purely that he/she did not know of the particular requirement that has been shown to have been breached. It is a much-cited aphorism that "ignorance of the law is no excuse", and on occasion this has been given as a reason why the defence of reasonable excuse cannot be available in such circumstances. We see no basis for this argument. Some requirements of the law are well-known, simple and straightforward but others are much less so. It will be a matter of judgment for the FTT in each case whether it was objectively reasonable for the particular taxpayer, in the circumstances of the case, to have been ignorant of the requirement in question, and for how long. *The Clean Car Co* itself provides an example of such a situation.

38. This emphasises the circumstances of the lack of knowledge of the law. It seems to me that in construing what was intended by Parliament as being capable of being a reasonable excuse the question is what conduct Parliament intended to penalise in relation to a transgression of the law. The answer to that is that it did not intend to penalise behaviour in which the conduct of the taxpayer was reasonable in the circumstances even if that resulted in a breach of the law. But what is reasonable must be judged against the actions of a hypothetical person who had in mind the need to comply with whatever statutory obligations might apply to him from time to time

39. I do not consider that Mr Gilbert had, as HMRC contend, an *obligation* to keep abreast of changes in the law. There is no such obligation in the statute. But if he did not know the law because he had made no reasonable effort to find out what it was his conduct may fall short of that of the hypothetical reasonable taxpayer who had in mind the need for tax compliance.

40. In relation to a breach of the law the answer to the question: "what caused the taxpayer's ignorance of the change in the law?" will affect whether he or she acted reasonably In some cases that cause may well afford a reasonable excuse: for example if the taxpayer had been in a coma, or was advised by HMRC or another reputable source that the law would not or was unlikely to change in a relevant period, or if the taxpayer did not have the mental capacity to understand the possibility of a change in the law; in other circumstances the cause of that ignorance may be unlikely to found a reasonable excuse: for example a simple assumption that there would be no change or a decision to do nothing unless asked to do something by HMRC. In the first set of examples it might be said that the taxpayer acted reasonably having regard to his circumstances and the need for compliance, in the second the reverse.

41. Turning now to the circumstances argued on behalf of Mr Gilbert:

(a) *No ordinary taxpayer who had lived abroad for 15 years, as Mr Gilbert had, could possibly have known of the change in the law*;

There was no evidence that Mr Gilbert had made any attempt to discover whether there had been any changes in the law. That is not to suggest that a reasonable taxpayer who gave reasonable priority to tax compliance in his position would have made daily enquiries, but they would have made some. Holding property in a jurisdiction exposes the owner to the rules of that jurisdiction, and I consider that the hypothetical reasonable taxpayer would have attempted some enquiries.

(b) The new law was not widely publicised and affected only a few taxpayers;

HMRC do not contend that they advertised the changes otherwise than on the internet so I accept that the change was not widely advertised in other media. But I think that a taxpayer with a reasonable regard to compliance would have made some enquiries as to the applicable law at the time of the sale of a property in the UK.

(c) Mr Gilbert's lack of access to a computer meant that any online publicity given to the change by HMRC would not have been accessible to him;

The fact that his internet access was limited or non existent would have made that activity more difficult but there was no suggestion that he attempted it, for example by borrowing another person's computer.

(d) It would have been only fair for HMRC to have notified Mr Gilbert of this change in the law;

I do not think that Mr Gilbert can successfully contend that he would have relied upon HMRC to inform him of the change and that because they did not his inaction was reasonable. Whilst no doubt HMRC have records which would have enabled them to inform all those non-residents who declared income from UK property that there was a new obligation, and whilst it would have been helpful if they had, there was no reason for Mr Gilbert to suppose that they would, and no indication that he assumed they would. Thus HMRC's failure to do what would seem, on the facts before me, sensible good administrative practice cannot afford Mr Gilbert an excuse, let alone a reasonable excuse.

(e) Ignorance of a change in the law had been considered to afford a reasonable excuse in other tribunal decisions

The circumstances surrounding lack of knowledge of the law differ from taxpayer to taxpayer. The fact that one taxpayer's circumstances were judged to afford a reasonable excuse does not mean that those of another will.

(f) Khan and ignorance of the law

I did not find in *Khan* any finding in relation to ignorance of the law. The tribunal in that case considered three possible grounds for the appellant's appeal under the heading "reasonable excuse". The judge said:

> [57] The appellant's grounds of appeal are:
>
> (1) This was the first ever late return by the company.
>
> (2) The tax was paid on time so the delay caused no loss of revenue to HMRC.
>
> (3) The delay was partly caused by HMRC "suddenly withdrawing" their CT Tax filing software for 2016 and it took time to make alternative arrangements."

None of these related to ignorance of the law.

I concluded that the Appellant's representatives' reference to *Khan* was a typo for *McGreevy*, which was like *Khan* a decision of Judge Thomas. That I have considered above, where I have endeavoured to follow the reasoning of the Upper Tribunal in *Perrin.*

42. I have some sympathy with Mr Gilbert but I am called upon not to exercise compassion, but to decide whether he had a reasonable excuse. This was not a case where he was led to believe that he had no obligation or where he took steps to keep abreast of development and for some reason failed to find this change but a case of lack of knowledge and lack of enquiry.

43. I therefore find that Mr Gilbert had no reasonable excuse for his failure.

(b) Special Circumstances

44. Paragraph 16 permits me to reduce a penalty for special circumstances only if HMRC's decision not to do so was "flawed", that is to say it took into account irrelevant factors, failed to take into account relevant factors, was made under a material misapprehension of law, or was a decision no reasonable person could have made.

45. The review officer considered: that the requirement to make a return within 30 days was an unexpected event, that Mr Gilbert did not have a computer, that the property was sold at a loss so that there was no CGT to pay, that HMRC had not written to overseas property owners advising them of the change, and Mr Gilbert's "agent questioning why the return was due within 30 days". None of these seem irrelevant and on the evidence before me there are no relevant factors which have been ignored. I detect no misapprehension of law in the officer's consideration. The decision that these factors did not warrant a reduction seems to me to be within the range which could be made by a reasonable officer (whether or not it would have been the decision I would have made). The decision is therefore not flawed and I cannot substitute my own view.

46. I therefore find that no reduction in the penalties can be made under paragraph 16.

(c) Improper assessment: must the penalty be determined by a named officer?

47. In *Khan* Judge Thomas was considering penalties arising under Sch 18 Finance Act 1998. He held that such penalties were to be levied by a determination under section 100 Taxes Management Act 1970 ("TMA") and said:

> 23. In my view the requirement in s 100(1) TMA is for a flesh and blood human being who is an officer of HMRC to make the assessment, that is to decide to impose the penalty and give instructions which may be executed by a computer (s 113(1D) TMA).

48. I note however that Judge Thomas was concerned to be precise in his conclusions. He said:

> 54. I should also make it clear that in any case what I say is limited to the position as it applies to the penalty in paragraph 17 Schedule 18 FA 1998. In particular it should not be read as applying to any of the penalties in Schedules 55 and 56 FA 2009.

49. Thus his conclusions in relation to Sch 18 penalties cannot automatically be taken as applicable to the Sch 55 penalties in Mr Gilbert's appeal.

50. In this context I note that Sch 18 FA 1998 contains no provisions relating to the assessment of penalties, and that as a result the provisions of section 100 TMA were

relevant to their assessment (or determination). Section 100(1), on which part of Judge Thomas' argument rested, provided:

> "(1) … an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.

51. Further provisions of section 100, 100A and 100B provided for the service of a determination on the taxpayer, the date when the penalty was payable, and the mechanism for appeal. None of these were the subject of provisions in Sch 18 FA 1998

52. By contrast para 18 Sch 55 FA 2009 contains specific provisions for the assessing, notification and payment of, and appeal against, a penalty.

53. In particular para 18(1)(a) provides that when a person is liable to a penalty under the schedule

> "HMRC must…assess the penalty".

54. In contrast to the words of section 100 TMA, that does not appear to me to require that an identifiable officer of HMRC must make an assessment.

55. A second limb of judge Thomas' argument in *Khan* rested on the proposition that the making of an assessment required a decision to assess made by an officer. He found that in that case there was no evidence of any decision making by an officer, and that HMRC's manuals suggested that the penalty was produced without human intervention by the computer ([38]). He recited the FTT decision in *Morgan & anor v HMRC* UKFTT 317 (TC) in which the tribunal – in relation to a separate requirement of para 4(1)(b) Sch 55 which expressly requires that HMRC must "decide that …a penalty should be payable - said that it was

> "not satisfied that an action by HMRC's computer is a decision by HMRC"

56. So far as concerns that specific requirement in para 4 Sch 55 that HMRC must decide that a penalty is payable the Court of Appeal held that this condition was satisfied because HMRC had taken a policy decision that such penalties should be assessed. The Master of the Rolls said :

> [18].In my judgment, a generic policy decision of the kind taken by HMRC in June 2010 is a decision which satisfies the requirement of para 4(1)(b). I do not, therefore, need to deal with Mr Vallat's alternative submission that para 4(1)(b) is satisfied by HMRC's computer, programmed in accordance with that policy decision, automatically issuing a penalty notice. I must confess to having considerable doubts as to whether it is correct.

57. The penalties assessed on Mr Gilbert were under paras 3 and 5 of Sch 55 which do not contain the requirement in para 4 that HMRC must "decide" that a penalty should be payable, so the precise context of those decisions not directly relevant to Mr

Gilbert's appeal. Nevertheless there remains an argument that for HMRC to "assess", as is required by para 18(1)(a), some person has to take a decision so to do.

58. I do not consider however that this is correct. There is a difference between the making of an "assessment" to tax which requires the exercise of some judgement and the assessing of a penalty the amount of which, in the case of penalties under para 3 and 5 Sch 55, is fixed by the statute. I do not consider that the requirement in para 18(1)(a) Sch 55 that HMRC assess the penalty requires the making of a decision so to do: the language of that provision is mandatory and confers no discretion or room for any decision. It does not therefore require the action of a specific named officer.

59. For these reasons I reject the argument that the assessing of a penalty under paras 3 or 5 Sch 55 must be done by a named officer and cannot be done by a computer (if it was). I find that the penalties were lawfully assessed.

Conclusion

60. I dismiss the appeal.

Rights of onward Appeal

61. 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.

CHARLES HELLIER
TRIBUNAL JUDGE

RELEASE DATE: 8 AUGUST 2018