Neutral Citation: [2023] UKFTT 00962 (TC) Case Number: TC08986

FIRST-TIER TRIBUNAL
TAX CHAMBER

By remote video hearing

Appeal reference: TC/2021/11183

CAPITAL GAINS TAX – assessments – whether in time – yes - whether displaced by Appellant – no. LATE FILING PENALTIES - whether correctly raised – yes – appeal dismissed

Heard on: 9 June 2023
Judgment date: 6 November 2023

Before

TRIBUNAL JUDGE VIMAL TILAKAPALA
GILL HUNTER

Between

MR SUNDAY SALOKUN

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mr Salokun represented himself

For the Respondents: Gemma Truelove litigator of HM Revenue and Customs' Solicitor's Office

INTRODUCTION

1. With the consent of the parties, the form of the hearing was by video and the remote platform the Tribunal video hearing system. The documents to which we were referred were included in a hearing bundle and a statement of reason was submitted by the Respondent.

2. Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

3. This is an appeal by Mr Sunday Salokun (the Appellant) against the following HMRC decisions:

(a) assessments to capital gains tax for the tax years 2014/15 of £43,132.50, and 2015/16 of £24,044.78 (£67,177.28 in aggregate); and

(b) penalties for the filing of inaccurate Income Tax Self-Assessment returns for the tax years 2014/2015 of £19,409.62, 2015/2016 of £8,415.67 and 2016/2017 of £5,482.45 (£33,307.74 in aggregate).

4. The assessments for the 2014/15 and 2015/16 tax years are for undeclared property disposals. An assessment was also raised for the 2016/17 tax year although this is not being appealed.

5. The penalty assessments relate to the undeclared disposals and the consequent underpayment of capital gains tax.

6. The Appellant does not dispute the fact that the properties were sold. His primary contention is that the properties were sold in order to raise funds to pay for the care of his wife who was and still is in extremely poor health. The Appellant further contends that he was instructed to sell his properties for this purpose by the government. On this basis he believes that he should not have to pay the tax or penalties that have been assessed.

Background and facts

7. The relevant facts and procedural history are as follows:

(a) On 22 December 2015 the Appellant filed his ITSA return for the 2014/15 tax year. No capital gains were declared.

(b) On 8 March 2016 HMRC received from the Appellant an amendment to the 2014/15 tax return. The amendment declared property income.

(c) On 3 May 2016 the Appellant filed his ITSA return for the 2015/16 tax year. No capital gains were declared.

(d) On 16 July 2018 the Appellant attempted to file an amendment to his 2015/16 ITSA return. This was to declare a capital gain of £108,162 from the sale of 9 Henry Cooper Way. The amendment was outside the time limits set by s 9ZA(2) TMA 1970 and so the amendment was not made. However, HMRC treated the attempted amendment as a notification of intent to disclose by the Appellant.

(e) Also on 16 July 2018 the Appellant filed an ITSA return for the 2016/17 tax year. The return declared a capital gain of £60,680 from the sale of Flat 9, Canadian Close SE6 3AU.

(f) On 9 January 2019 HMRC issued two letters to the Appellant and his agent (Alpha Business Consult Limited). The first letter advised that HMRC were in receipt of information suggesting that the Appellant's ITSA return for 2015/16 was incorrect and that a check of his tax position was being conducted. The second letter advised that an enquiry was being opened under s 9 TMA 1970 into his 2016/17 return.

(g) There was then further correspondence between the parties.

(h) In a letter dated 21 January 2019 the Appellant informed HMRC about his wife's health condition, that she needed 24 hour care and that social services had refused to help pay for the care. Several doctor's letters confirming her condition were enclosed.

(i) In a letter dated 12 February 2019 the Appellant's agent provided further information in relation to the following properties (9 Henry Cooper Way, Flat 9 Canadian Court and 168 Schroffold Road).

    a. 9 Henry Cooper Way – the property was derelict when acquired for £120,000 and the Appellant spent £33,225 making it habitable. It was sold twice, first to a family member although the Appellant retained control and the second time as an arm's length transaction. All records and documentation in relation to the expenditure incurred on 9 Henry Cooper Way were lost when squatters broke in to the Appellant's house.

b. Flat 9 Canadian Road – the property was acquired for 135,000 and expenditure of £17, 687.28 incurred. All documentation relating to the expenditure was lost as a result of the break-in referred to above.
c. 168 Schroffold Road – the completion statement for this property was stolen as a result of the break in referred to and the firm of solicitors that acted for the Appellant no longer had his file.

(j) On 19 November 2019 HMRC wrote to the Appellant explaining (amongst other issues addressed in the letter) that CGT was due on the disposal of 9 Henry Cooper Way, Flat 9 Canadian Court, 168 Schroffold Road and 218 Sangley Road. Calculations of the capital gains were also provided. Details of the penalty scheme and the Human Rights Act were also sent to the Appellant.

(k) On 18 February 2020 the Agent emailed HMRC stating that the Appellant disagreed with the purchase prices used by HMRC in their CGT calculations for 168 Schroffold Road and 218 Sangley Road. The email did not provide any figures or supporting evidence but promised that details would be sent within ten working days.

(l) On 13 March 2020 as no supporting evidence had been received, HMRC raised assessments for 2014/15, 2015/16 and 2016/17.

(m) On 20 April 2020 the Appellant appealed against the assessments on the grounds that he had sold the properties to pay for his wife's healthcare and he had no money.

(n) On 7 May 2020 the Appellant's agent provided (in a letter dated 24 April 2020) further grounds of appeal as follows:
a. The Appellant did not pay CGT due to "instruction" received from Social Services that it was the Appellant's responsibility to pay for his wife's medical expenses because he owned multiple properties;
b. By funding his wife's medical expenses the Appellant saved the government "hundreds and thousands of pounds";
c. That the Local Government Social Care Ombudsman had advised the Appellant to use his resources to provide the care for his wife;

(o) On 19 August 2020 the Appellant provided responses to questions raised by HMRC regarding the behaviour leading to the inaccuracies in his ITSA returns. In his response the Appellant:

a. Agreed that his properties were long term investments and had been let out.

b. Stated that he did not declare the capital gains as the proceeds were used for his wife's care.

c. Stated that he had received advice from an accountant and a tax agent but nevertheless he spent the disposal proceeds on his wife's care.

d. Stated that he did consider his tax liabilities for the years but that by paying for his wife's care he had saved the government hundreds and thousands of pounds.

(p) On 2 October 2020 HMRC wrote to the Appellant setting out their position which was that

a. CGT was due and payable in respect of the disposal of 9 Henry Cooper Way, Flat 9 Canadian Court, 168 Schroffold Road and 218 Sangley Road.

b. As no evidence had been provided in respect of the purchase prices of 168 Schroffold Road and 218 Sangley road, HMRC had used figures obtained from the Valuation Office.

c. Penalties would be charged for each of the tax years 2014/15, 2015/16 and 2016/17.

(q) On 16 November 2020 HMRC sent a penalty explanation letter to the Appellant setting out penalties payable for each of the 3 tax years and stating that they would be calculated on the basis of the disclosures being prompted, the behaviour being deliberate and the full reductions being given for the quality of disclosure. The initial penalty amounts (which have now been adjusted – see (z) below) were:

a. 2014/15 £19,409.62

b. 2015/16 £8,415.67

c. 2016/17 £5,482.45

(r) On 16 November 2020 HMRC acknowledged that errors had been made in the penalty explanation letter issued on 2 October 2020 (the penalties had been described as "failure to notify" penalties under Schedule 41 of FA 2017 whereas they should have been for inaccurate returns under Schedule 24 FA 2017). HMRC also acknowledged that the assessment raised for 2015/16 had been incorrectly described as being for 2013/14.

(s) On 25 November corrected assessments for the 2014/15, 2015/16 and 2016/17 tax years and a nil assessment for the 2013/14 tax year were sent to the Appellant.

(t) On 25 December 2020 the Appellant's agent sent a letter to HMRC appealing the new assessments.

(u) On 25 March 2021 HMRC issued a "view of the matter" letter to the Appellant confirming the HMRC position and informing the Appellant that he could request an independent review of the matter or appeal to the Tribunal.

(v) In a letter dated 16 April 2021 the Appellant requested an independent review. He also listed the following as "grounds of appeal":

a. All the documents relating to "the property" were destroyed by an intruder (the property was not specified).

b. He had not received any legal advice for 11 years after selling the property (again the property was not specified).

c. He had first received advice from a lawyer in 2014.

d. Nobody is above the law including HMRC.

e. He did not have any other sources of income and so the only way in which he could ensure care for his wife was to sell his properties.

(w) On 14 May 2021 HMRC issued a Notice of Penalty Assessment to the Appellant and his Agent.

(x) On 28 September 2021 HMRC issued its review conclusion letter. The review upheld all of the HMRC decisions.

(y) On 28 October 2021 the Appellant notified his appeal to the Tribunal against the assessments and penalties.

(z) On 25 October 2022 HMRC issued a closure notice for the tax year 2016/17. The closure notice replaced the notice of assessment for the tax year 2016/17 which had been issued on 25 November 2020. HMRC also acknowledged that the tax charge in the original notice of assessment had been incorrectly computed as the Appellant had provided incorrect figures in respect of his capital gain. This resulted in an increase in the tax due for 2016/17 from £6,716.00 to £10,274.40. The amended tax charge resulted in a corresponding adjustment of the penalty charge for the year. The overall

penalty charge was however reduced as HMRC applied a reduction based on the Appellant's disclosure being unprompted rather than prompted. The resulting penalty assessment was for £5,482.45. The Appellant has withdrawn his appeal in respect of the CGT assessment for this year, but not the penalty assessment.

(aa) The Appellant has provided, inter alia, a letter from the Social Care Ombudsman dated July 2019 (the day is not legible) showing the Ombudsman's decision not to investigate Mr Salokun's complaint in respect of the Council's failure to fund his wife's care. This is on the basis that the complaint was made late and that the Council had taken the action that the Ombudsman would have expected it to and had offered a suitable response to Mr Salokun's complaint.

(bb) We have also seen several emails outlining Mr Salokun's wife's illness and care plans.

Issues for the Tribunal to determine

8. The Tribunal must determine the following issues:

(i) Whether the tax assessments for 2014/15 and 2015/16 have been correctly issued.

(ii) Whether the penalties assessments for 2014/15, 2015/16 and 2016/17 have been correctly issued.

9. The burden of proof is with HMRC to satisfy the Tribunal that the assessments and the penalties have been correctly issued and that the Appellant deliberately or carelessly withheld information from HMRC. To the extent that the assessments and penalties have been correctly issued the burden of proof then shifts to the Appellant to show that the assessments are incorrect or excessive and that they took reasonable care to file accurate ITSA returns. The standard of proof is the ordinary civil standard which is the balance of probabilities.

DISCUSSION

The tax assessments

10. The relevant legislation is as follows:

S 9A TMA 1970 provides:

(1) An officer of the Board may enquire into a return under section 8 or 8A of this Act if he gives notice of his intention to do so ("notice of enquiry")-

(a) to the person whose return it is ("the taxpayer")

(b) within the time allowed

(2) The time allowed is –

(a) If the return was delivered on or before the filing date, up to the end of the period of twelve months [after the day on which the return was delivered:]

(b) If the return was delivered after the filing date, up to and including the quarter day next following the anniversary of the day on which the return was delivered.

S 29 TMA 1970 provides:

(1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a [year of assessment]-

(a) that an amount of income tax or capital gains tax ought to have been assessed but has not been assessed

(b) that an assessment to tax is or has become insufficient or

(c) ……

the officer or as the case may be the Board may, subject to subsections (2) and (3) below make an assessment in the amount, or the further amount, which ought in his or in their opinion to be charged in order to make good to the Crown the loss of tax.

S 29(3) – (5) TMA 1970 provides:

(3) Where the taxpayer has made and delivered a return under [section 8 or 8A]2 of this Act in respect of the relevant [year of assessment], he shall not be assessed under subsection (1) above—

(a) in respect of the year of assessment mentioned in that subsection; and

(b) … in the same capacity as that in which he made and delivered the return,

unless one of the two conditions mentioned below is fulfilled.

(4) The first condition is that the situation mentioned in subsection (1) above [was brought about carelessly or deliberately by the taxpayer or a person acting on his behalf.

(5) The second condition is that at the time when an officer of the Board—

(a) ceased to be entitled to give notice of his intention to enquire into the taxpayer's return under section 8 or 8A of this Act in respect of the relevant year of assessment; or

(b) in a case where a notice of enquiry into the return was given—

(i) issued a partial closure notice as regards a matter to which the situation mentioned in subsection (1) above relates, or

(ii) if no such partial closure notice was issued, issued a final closure notice,]

the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.

S 34 TMA 1970 provides

(1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, [an assessment to income tax or capital gains tax may be made at any time [not more than 4 years after the end of]2 the year of assessment to which it relates]1

S 36 TMA 1970 provides

(1) An assessment on a person in a case involving a loss of income tax or capital gains tax brought about carelessly by the person may be made at any time not more than 6 years after the end of the year of assessment to which it relates (subject to subsection (1A) and any other provision of the Taxes Acts allowing a longer period).

(1A) An assessment on a person in a case involving a loss of income tax or capital gains tax—

(a) brought about deliberately by the person,

……..

may be made at any time not more than 20 years after the end of the year of assessment to which it relates (subject to any provision of the Taxes Acts allowing a longer period).

11. As the Appellant filed his ITSA return for the tax year 2016/17 on 16 July 2018 (after the statutory deadline), HMRC would have had until 31 July 2019 to give the Appellant notice of their intention to open an enquiry. As notice of enquiry was given on 9 January 2019 we find that it was within the time allowed and therefore a valid notice.

12. The Assessments for the relevant tax years; 2014/15, 2015/16 and 2016/17 will all have been made in time if the Appellant's failure to declare his CGT liability for the relevant years can be regarded as "careless" or "deliberate behaviour" on his part.

13. The Appellant's agent made it clear that the Appellant had sought advice from an accountant and a tax adviser in respect of his property disposals.

14. The Appellant has been very clear that, having taken into account what he regarded as advice from Lewisham council Social Care and Health Department and the Local Government Social Care Ombudsman, he decided to sell his properties in order to fund his wife's healthcare. As a result he did not want to pay capital gains tax due on the sale of his properties in 9 Henry Cooper Way, 16 Schroffold Road or the sale of his interest in 218 Sangley Road, and instead wanted to use all of the sale proceeds for that purpose. Accordingly, he chose not to disclose the property sales and the capital gains tax due in his tax returns for 2014/15, 2015/16 and 2016/17.

15. The Appellant has been open about his intentions and has not sought to conceal them. From the evidence provided it is also clear that the Appellant is an experienced property investor and aware of his tax obligations and in particular the obligation to pay capital gains tax on a gain made on disposal of a property.

16. Although we have great sympathy for the predicament in which the Appellant found himself, we find that he made a conscious decision not to disclose the relevant information and that it was the non-disclosure which led to the under assessment of the capital gains tax due. The Appellant knew about the obligation and chose not to comply as he believed that he should not have to pay the tax in his particular circumstances.

17. We find, therefore, that the assessments were validly issued and made in time.

The amounts of tax assessed

18. The Appellant does not dispute that the four properties in question: 16 Schroffold Road, 218 Sangley Road, 9 Henry Cooper Way and Flat 9 Canadian Court were sold in the relevant tax years.

19. The Appellant challenged the purchase price used by HMRC in its computation of the capital gain for two of the properties 168 Schroffold Road and 218 Sangley Road, but despite being given the opportunity to provide details of the actual purchase prices, failed to do so. This was because of a break-in at his home and the ransacking of his belongings. HMRC therefore used figures provided by the Valuation Office Agency in order to determine the prices paid.

20. We note also that the Appellant considered that he had challenged the allowable expenditure for 2014/15 in respect of 16 Schroffold Road and 218 Sangley Road. However, the first time the Appellant mentioned this was on 16 April 2021 in his request for a review of the HMRC decisions.

No further mention was made of the challenge and no evidence of expenditure provided. Although the Appellant explained to HMRC that documentation was lost during the break-in, no mention of documentation relating to 2014/2015 was mentioned. The Appellant has, therefore, failed to show that HMRC's assessment for 2014/15 was incorrect.

21. The Appellant also disputed the amount of expenditure incurred in respect of 9 Henry Cooper Way and again was unable to provide actual details of his expenditure - as a result of the break-in and ransacking of his belongings. Notwithstanding this, HMRC allowed the capital expenditure (of £33,225) claimed by the Appellant in respect of 9 Henry Cooper Way.

22. The Appellant is not challenging the assessment for Flat 9 Canadian Way and so we have not considered the 2016/17 assessment for this purpose (although we do consider it in relation to the penalty assessment).

23. Accordingly we find that the amounts assessed are correct. These are as follows:

2014/15 - £43,132.50 relating to the disposal of 16 Schroffold Road and 218 Sangley Road

2015/16 - £24,044.78 relating to the disposal of 9 Henry Cooper Way

The Penalties

24. The relevant legislation is as follows:

Para 1, Sch24 FA 2007 provides:

(1) A penalty is payable by a person (P) where—

(a) P gives HMRC a document of a kind listed in the Table below, and

(b) Conditions 1 and 2 are satisfied.

(2) Condition 1 is that the document contains an inaccuracy which amounts to, or leads to—

(a) an understatement of [a]1 liability to tax,

(3) Condition 2 is that the inaccuracy was [careless (within the meaning of paragraph 3) or deliberate on P's part]1.

Para 3, Sch24 FA 2007 provides:

(1) For the purposes of a penalty under paragraph 1, inaccuracy in a document given by P to HMRC is-

(a) "careless" if the inaccuracy is due to failure by P to take reasonable care,

(b) “deliberate but not concealed” if the inaccuracy is deliberate [on P's part]1 but P does not make arrangements to conceal it, and

(c) “deliberate and concealed” if the inaccuracy is deliberate [on P's part]1 and P makes arrangements to conceal it (for example, by submitting false evidence in support of an inaccurate figure).

Para 13(3) Sch24 FA 2007 provides:

(3) An assessment of a penalty under paragraph 1[or 1A]1 must be made [before the end of the period of 12 months beginning with—

(a) the end of the appeal period for the decision correcting the inaccuracy, or

(b) if there is no assessment [to the tax concerned]1 within paragraph (a), the

date on which the inaccuracy is corrected.

25. It is not disputed that the Appellants ITSA returns for 2014/15, 2015/16 and 2016/17 contained inaccuracies that led to the understatement of tax.

26. We have also found that the non-declaration of the Appellant’s property disposals and capital gains was deliberate. He made no attempt to conceal his intention and readily admitted it throughout the course of his discussions with HMRC.

27. We also note that as the tax assessments were issued on 25 November 2020 and the penalty assessments issued on 14 May 2021, they were issued within the time period specified in Para 13(3)(a) Schedule 24.

28. We find that the penalties were, therefore validly issued.

The calculation of the penalties

29. The relevant legislation is as follows:

Paragraph 4, Sch24 FA 2007 provides:

(1) This paragraph sets out the penalty payable under paragraph 1.

(2) If the inaccuracy is in category 1, the penalty is—

(a) for careless action, 30% of the potential lost revenue,

(b) for deliberate but not concealed action, 70% of the potential lost revenue, and

(c) for deliberate and concealed action, 100% of the potential lost revenue.

Paragraph 4A, Sch24 FA 2007 provides:

(1) An inaccuracy is in category 1 if—

(a) it involves a domestic matter …

Paragraph 9(2), Sch24 FA 2007 provides:

(2) Disclosure—

(a) is "unprompted" if made at a time when the person making it has no reason to believe that HMRC have discovered or are about to discover the inaccuracy, the supply of false information or withholding of information, or the under-assessment, and

(b) otherwise it is prompted.

Paragraph 10, Sch24 FA 2007 provides:

(1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table (a "standard percentage") has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.

(2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—

(a) in the case of a prompted disclosure, in column 2 of the Table, and

(b) in the case of an unprompted disclosure, in column 3 of the Table.1

Standard	Minimum % for prompted disclosure	Minimum % for unpromoted disclosure
30% 70% 100%	15% 35% 50%	0% 20% 30%

30. The Appellant's inaccuracies for each of the three tax years are in category 1 as they are domestic.

31. HMRC considered the disclosures for 2014/2015 to be unprompted and the disclosures for 2015/16 and 2016/17 to be prompted.

32. For each of the years HMRC then applied to the penalties the maximum reduction possible in line with HMRC guidance, taking into account the Appellant's conduct and the categories of "telling", "helping" and "giving access". On this basis the penalties issued to the Appellant in May 2021 were as follows

2014/15 – £19,409.62

2015/16 – £8,415.67

2016/17 – £5,482.45

33. Since issuing those penalties HMRC have reconsidered the nature of the Appellant's disclosure and have concluded that the disclosures for 2015/2016 and 2016/2017 should be categorised as unprompted rather than prompted. The Tribunal was alerted by HMRC to this change of view at the hearing and HMRC had also included details in their statement of case.

34. The change of view led to re-computation by HMRC of the penalties for both years, and the revised figures for those years are:

2015/16 - £4,808.95

2016/17 - £711.68

35. As these differ from the penalties assessed and notified to the Appellant, HMRC have asked the Tribunal to exercise its right under s 50(6) TMA 70 to reduce the penalty assessments for those years. S 50(6) TMA provides, so far as relevant:

"If, on an appeal notified to the tribunal, the tribunal decides-

(a) …
(b) …
(c) that the appellant is overcharged by an assessment other than a self-assessment,

The assessment or amounts shall be reduced accordingly, but otherwise the assessment shall stand good."

36. We understand that HMRC have revised their determination on this issue having re-evaluated the appellant's conduct. There is no dispute as to the re-determination from the Appellant. We note for this purpose that he is unrepresented but also that the re-determination improves his position as it reduces the penalties.

37. We agree as a result of decision to treat the disclosures as unprompted rather than prompted, the Appellant would be overcharged by the existing assessments 2015/16 and 2016/17.

38. We direct therefore that those amounts should be reduced in accordance with HMRC's revised computations but that the penalty assessments shall otherwise stand good.

Penalty reduction for "special circumstances"

39. Paragraph 11, Schedule 24 FA 2007 provides;

> (1) If they think it right because of special circumstances, HMRC may reduce a penalty under paragraph 1, 1A]1 or 2.
>
> (2) In sub-paragraph (1) "special circumstances" does not include—
>
> > (a) ability to pay, or
> >
> > (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

40. HMRC have considered application of this provision and concluded that they do not consider special circumstances justifying a reduction to exist. They point out specifically that an inability to pay cannot be a special circumstance. They go on to say that whilst they acknowledge that Mrs Salokun's health was a priority for Mr Salokun they do not regard the illness of a close family member and having primary carer responsibilities to be circumstances which amount to "special circumstances" justifying a penalty reduction. This is because in their view they are not unique circumstances and it is something that others have to deal with whilst still meeting their tax obligations and liabilities.

41. Paragraph 17(3)(b), Schedule 24 FA 2007 allows this Tribunal to substitute its own decisions for HMRC's but it can only do so to a different extent if we consider HMRC's decision to be flawed in light of the principles applicable in proceedings for judicial review. Put simply, for us to substitute HMRC's decisions we would need to find that HMRC's decision had taken into account irrelevant factors or had failed to take into account (or had given insufficient weight to) relevant ones – see *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223. We do not consider HMRC's decision to be flawed on this basis and so must uphold the decision.

42. For completeness we note that the Appellant also contended that he should not be charged to tax as a matter of human rights law, quoting Article 3 of the United Nations' Universal Declaration of Human Rights and "the right to life, liberty and security of person". His argument here is that by preventing him from paying for his wife's care, HMRC would be complicit in torture and/or the inhumane treatment of his wife. Although we are sympathetic to the Appellant's circumstances we do not agree that the provisions of the declaration assist him in relation to the specific tax and penalty assessments in question. He also contended that he had been advised by the government to sell his properties. We found no evidence for this contention.

CONCLUSION

43. The appeals against the tax assessments for 2014/15 and 2015/16 are dismissed and those assessments stand.

44. The appeals against the penalty assessments for 2014/15, 2015/16 and 2016/17 are also dismissed. The assessment for 2014/15 stands. The assessments for 2015/16 and 2016/17 are however reduced in accordance with HMRC's revised computations.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

45. 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.

VIMAL TILAKAPALA

TRIBUNAL JUDGE

Release Date: 06th NOVEMBER 2023