

Commissioners for His Majesty's Revenue and Customs (Appellant) v SSE Generation Ltd (Respondent)

Case ID: 2021/0056

Case summary

Issue

Whether SSE is entitled to claim capital allowances for the expenditure that it incurred in the construction of the Glendoe Hydro Electric Power Scheme (**the Scheme**). Specifically, whether some elements of the Scheme are properly described as tunnels or aqueducts and so excluded from s.22(1)(a) in Part 2 of the Capital Allowances Act 2001.

Facts

SSE claimed capital allowances on expenditure incurred when constructing the Scheme. HMRC disputed £227 million of SSE's claimed capital allowances for tax years 31 March 2006 to 31 March 2012 on the basis that certain of the assets did not give rise to allowable expenditure under the Capital Allowances Act 2001. SSE appealed to the First Tier Tribunal (**FTT**). The FTT held that SSE was entitled to claim allowances for some of the disputed items but upheld HMRC's view on others. HMRC appealed to the Upper Tribunal (**UT**), who dismissed the appeal and allowed SSE's challenge to parts of the FTT's decision. As a result, the FTT remade the decision largely in SSE's favour. HMRC appealed to the Court of Appeal (**CA**). The CA allowed the appeal in relation to certain parts of the UT's decision on the basis that SSE had no permission to cross-appeal, but otherwise dismissed HMRC's appeal. HMRC now appeals to the Supreme Court and SSE cross-appeal.

Judgment appealed

[\[2021\] EWCA Civ 105](#)

Parties

Appellant(s)

Commissioners for His Majesty's Revenue and Customs

Respondent(s)

SSE Generation Ltd

Appeal

Justices

Lord Reed, Lord Briggs, Lord Hamblen, Lord Leggatt, Lord Stephens

Hearing start date

23 March 2023

Hearing finish date

23 March 2023

Watch hearing

23 March 2023 [Morning session](#)