



**UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER**

**[2016] UKUT 237 (TCC)
Case number: UT/2015/0002**

GATESHEAD JEWISH NURSERY

Appellant

-and-

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

Respondents

Tribunal : Judge Colin Bishopp

Sitting in London on 1 February 2016

After reading the parties' submissions

It is directed that:

- 1 The appellant shall pay the respondents' costs of and incidental to this appeal;
- 2 the said costs shall be subject to summary assessment upon the application of either party to be made not later than 15 March 2016.

**Colin Bishopp
Upper Tribunal Judge**

Release date: 8 February 2016

REASONS FOR DIRECTION

1. The issue in this appeal was whether certain building works undertaken by the appellant were zero-rated or standard-rated for the purposes of VAT. The amount of tax in issue was in the region of £8,000. The First-tier Tribunal decided against the appellant, which sought and obtained leave to appeal to this tribunal. It also sought a direction in advance of the hearing that there should be no risk of its being subject to an adverse costs direction. That application came before me in November 2015, when I concluded that it should be dismissed. The appellant was evidently not willing to risk an adverse costs direction, and shortly thereafter it withdrew its appeal. The question now is whether it should pay HMRC's costs incurred in resisting the appeal.

2. Although I have some sympathy with the appellant, the general rule in this Chamber is that costs follow the event. That is the position on which the Tribunal Procedure Committee has determined, and in the ordinary case the general rule is to be respected. I have, of course, a discretion whether to deviate from the rule but in my judgment I can do so only when a cogent reason has been demonstrated. I do not perceive any such reason in this case. The appellant's representations in answer to HMRC's application argue that no such direction should be made but do not explain why. Rather, they assert that HMRC should have applied what is commonly known as the Rees Practice (a practice by which HMRC did not ask for costs if successful in an appeal before the VAT and Duties Tribunal, but which has largely fallen into disuse) and go on to argue that in any event the amounts claimed are excessive. I detect nothing which could properly divert me from making the customary direction.

3. On the other hand, I can see some force in the argument that the amount claimed is excessive. It is nevertheless not enough to warrant the additional cost of detailed assessment and I agree with the appellant's proposal that the parties should be left to try to agree on a figure if they can, returning to the tribunal for summary assessment if they cannot. I have made directions accordingly.

**Colin Bishopp
Upper Tribunal Judge**

Release date: 8 February 2016