



Neutral Citation: [2026] UKFTT 00673 (TC)

Case Number: TC 09874

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

Location: Decided on the papers

Appeal reference: TC/2024/02346

*VALUE ADDED TAX – appellant failing to provide Tribunal with copies of decision letters he wished to appeal against or sufficient grounds of appeal – unless order issued – appellant failing to comply and suffering heart attack after date for compliance – further unless order issued, taking account of appellant’s ill health – failure to comply – appeal automatically struck out – appellant making application for reinstatement but failing to provide copy decisions or grounds as required by unless orders – whether appeal should be reinstated – no*

**Judgment date: 06 May 2026**

**Decided by:**

**TRIBUNAL JUDGE BAILEY**

**Between**

**OMAR RAFIQUE**

**and**

**Appellant**

**THE COMMISSIONERS FOR HIS MAJESTY’S REVENUE AND CUSTOMS**

**Respondents**

The Tribunal determined the reinstatement application without a hearing and with the consent of the parties, having first read all documents on the Tribunal file, including in particular the Unless Orders of 12 May 2025 and 22 July 2025, the confirmation of strike out issued on 4 October 2025, the Appellant’s application for reinstatement dated 28 October 2025, the Respondents opposition of 27 November 2025 and the Appellant’s comments in response, also dated 27 November 2025.

## **DECISION**

### **INTRODUCTION**

1. This decision notice sets out the decision of the Tribunal (“FTT”) in respect of (1) the Appellant’s application to appeal against the confirmation that his appeal was automatically struck out, and (2) the Appellant’s application for reinstatement of his appeal. The Appellant’s application was opposed by HMRC.

### **OUTCOME**

2. As this is a long decision, it is appropriate to set out the outcome here. For the reasons set out below:

- the Appellant’s application to appeal against the strike-out confirmation, or have that confirmation set aside, is REFUSED

- the Appellant’s application for reinstatement is REFUSED.

3. The final paragraphs of this decision notice explain what the Appellant should do if he wishes to seek permission to appeal. Also, the Appellant’s attention is drawn to paragraphs 97-103 of this decision notice, which concern the use of fabricated case authorities.

### **THE RELEVANT FACTS**

4. On 2 April 2024, HMRC sent two letters to the Appellant.

5. In one of these letters, HMRC referred to previous correspondence that had been sent to the Appellant about penalties for deliberate behaviour, transferred to him as a result of his actions, and asked the Appellant to make immediate payment. In the other letter of 2 April 2024, HMRC warned the Appellant that he could be made bankrupt. The outstanding debt mentioned in both HMRC letters was £51,203.07. Each letter referred to an enclosed statement of debt or statement of liabilities.

6. Both of HMRC’s letters referred to HMRC having been in contact on previous occasions, asking the Appellant to get in touch regarding his personal circumstances and to ask for any support he needed.

7. On 4 April 2024, the Appellant filed a Notice of Appeal with the FTT. With this appeal the Appellant provided the first page only of each of the two 2 April 2024 letters from HMRC. In responding to the questions on the Notice of Appeal form, the Appellant stated that he had asked for a review by HMRC but more than 45 days had passed without a response, that his appeal concerned VAT, and that the dispute was about penalties or surcharges amounting to £35,000.

8. The appellant stated that his appeal was late due to moving house, and that he was:

- ... disputing the amount in question because the officer did not allow me to take into account the whole amount of vat in question – the vat I paid – I was advised by an offshore bookkeeper at the time

9. As his grounds of appeal, the Appellant stated:

1. vat amount is wrong – the company made eatable (sic) supplies but we didn’t get an opportunity to correct these returns
2. not offered an opportunity to present invoices incurred in the vat process – vat paid should be deducted from claim – not allowed that opportunity
3. I resigned as a director of the company which has now ceased trading – which means I cannot appeal against the companies amount – I should not be liable for this debt

4. it (sic) against natural justice to not allow me to appeal

5. the stamp duty is being appealed because the commercial property was inhabitable at the time of the lease being granted

10. As the desired outcome from the appeal, the Appellant stated:

I would like to be able (sic) to submit a vat return for the period in question await (sic) outcome of stamp duty application

11. On 31 July 2024, the FTT acknowledged receipt of the Appellant's appeal, categorised it as late and served a copy of the appeal upon HMRC. HMRC were asked to state whether they objected to the lateness of the appeal made by the Appellant and, if not, to file their Statement of Case within 60 days.

12. On 20 August 2024, HMRC made an application to the FTT, copying in the Appellant. In this application HMRC confirmed that they had no objection to the lateness of the appeal but asked the FTT to direct the Appellant to detail his grounds of appeal against HMRC's decision to issue a Personal Liability Notice ("PLN"). With regard to the grounds of appeal that the Appellant had filed, HMRC noted that grounds 1, 3 and 4 appeared to be generic statements. In respect of point 2, HMRC stated that:

... on several occasions throughout the VAT enquiry, the Appellant was asked to provide documents to verify the amounts claimed on their VAT returns for the relevant periods. The Appellant had several opportunities to provide documents (including invoices) but failed to do so. This ground of appeal does not set out the legal and factual reasons the Appellant relies upon to support their appeal against the [PLN].

13. In respect of point 5, HMRC noted that this ground:

... seemingly refers to a decision regarding Stamp Duty land tax (SDLT). [HMRC] submit that any decision in this regard is separate to [HMRC's] decision to issue a [PLN], carrying its own appeal rights. Any decision regarding SDLT would need to be distinctly appealed to the [FTT] with supporting reasons. This ground of appeal does not set out the legal and factual reasons the Appellant relies upon to support their appeal against the PLN.

14. The Appellant did not respond to HMRC's application. On 11 November 2024, a FTT Senior Tax Specialist Tribunal Caseworker considered the FTT file and issued directions to both parties. Direction 1 provided:

Appellant shall write to the [FTT] and [HMRC] by not later than 5 pm on 25 November 2024 and provide their amended grounds of appeal detailing:

- a) the reason which they disagree with [HMRC's] decision to issue them with a [PLN]; and
- b) the legal and factual grounds relied upon in support of their appeal.

15. The deadline for HMRC to provide their Statement of Case was extended until 60 days after the Appellant complied with Direction 1.

16. The Appellant did not comply with Direction 1, and he did not contact the FTT. On 16 January 2025, the FTT sent a letter chasing the Appellant to comply, but the FTT did not receive a response.

17. On 11 March 2025, HMRC emailed the FTT and the Appellant, forwarding an email which the Appellant had sent to HMRC on 6 February 2025. In this email to HMRC, the Appellant wrote:

Dear Sir/Madam,

I am writing to formally appeal against the penalties imposed on [the Appellant] and Karma Lounge Limited regarding the alleged failure to submit information and the non-payment of Stamp Duty for 10 High Street, due to cancellation of submission.

## **Grounds of Appeal**

### **1. Third-Party Error in Submission of Information**

The penalty imposed in relation to the non-submission of required information should be reconsidered, as the failure was caused by a third party who was responsible for handling these matters on behalf of Karma Lounge Limited. It is an established principle in case law that penalties should not be imposed when the taxpayer has taken reasonable steps to comply but was let down by an independent agent.

- In *Perrin v HMRC* [2018] UKFTT 221 (TC), it was held that a taxpayer may not be liable for penalties if they had a reasonable excuse due to reliance on a third party and took all reasonable steps to comply.
- Similarly, in *HMRC v Hok Limited* [2012] UKUT 363 (TCC), the tribunal found that if a taxpayer can demonstrate that they exercised reasonable care and diligence but was misled or failed by an agent, penalties should not apply.

Karma Lounge Limited entrusted [Name of Agent/Third Party] (sic) with the responsibility of submitting the required information, and they had failed to do so without informing the company. The company had every reason to believe that compliance obligations were being met. As such we request a cancellation of the penalty on this basis.

### **2. Non-payment of Stamp Duty Due to Submission Cancellation**

Regarding the alleged non-payment of Stamp Duty Land Tax (SDLT) for 10 High Street, the submission was cancelled, and as a result, no liability arose. The company acted in good faith and did not attempt to evade any tax obligations.

- In *Moulsdale t/a Moulsdale Properties v HMRC* [2021] UKFTT 271 (TC), it was determined that penalties should not be enforced when there is no tax loss or when an error arises from procedural cancellations rather than deliberate non-payment.
- Additionally in *Vibroplant v HMRC* [2009] UKFTT 246 (TC), the tribunal ruled that penalties should be proportionate and should not apply where a taxpayer's actions did not result in actual revenue loss.

Since the SDLT submission was cancelled, the company did not have an enforceable obligation to make the payment at the time. Therefore, imposing a penalty in such circumstances would be unjust and disproportionate.

## **Conclusion and request**

Given the case law cited above and the factual circumstances of this matter we respectfully request the following:

1. The penalty related to the non-submission of information be withdrawn due to third-party fault.

2. The penalty related to SDLT non-payment be cancelled, as no obligation existed due to the submission's cancellation.

We appreciate your prompt consideration of this appeal and look forward to your response.

Should you require any further details, please do not hesitate to contact me.

Yours sincerely

[the Appellant]

On behalf of [the Appellant] & Karma Lounge Limited

18. On the basis of the tone and length of this email – which differs from the tone and length of the Appellant's notice of appeal form – and on the basis of the uncompleted section in square brackets, I find that the text of this email was generated by artificial intelligence ("AI"), and was not subsequently reviewed by the Appellant. I find that the cases cited in this email are AI hallucinations – most of the citations are incorrect, and none of these cases support the propositions relied upon by the Appellant.

19. On 21 March 2025, HMRC made a further application to the FTT, again seeking an order that the Appellant provide more detailed particulars of his grounds of appeal, and pointing out the deficiencies in the Appellant's grounds even when combined with the email of 6 February 2025 which had not been sent to the FTT.

20. The FTT file was referred to Judge Perez. On 12 May 2025, Judge Perez issued one direction to HMRC (to provide clarification of a point made in their email of 21 March 2025) and two Unless orders to the Appellant.

21. The direction to HMRC and the two orders to the Appellant were contained in a four page decision that began with an analysis of what had thus far occurred in the FTT proceedings, and the issues Judge Perez had identified with the material that had been supplied by the Appellant. In this analysis Judge Perez noted that:

- no copies of any of the decisions that the Appellant wanted to appeal against had been provided to the FTT;
- the Appellant had not named the third party said to be responsible for failing to supply information;
- the explanations given by the Appellant in his grounds of appeal and email of 6 February 2025 did not constitute adequate grounds of appeal, and they appeared to raise more questions than they answered;
- the authorities cited by the Appellant had incorrect references, and the references referred to other (irrelevant) cases.

22. Judge Perez explained the nature of the two unless orders to be issued. The first Unless Order would result in the appeal being struck out automatically if the Appellant did not contact the FTT at all by the specified deadline of 11 July 2025. Judge Perez explained that the second unless order required an assessment of the quality of any material or submissions provided by the Appellant before the deadline so, once the deadline had passed, the FTT file would be referred to a judge. If that judge considered that the Appellant's compliance was not sufficient, then the appeal could be struck out.

23. Judge Perez set out 18 sub-paragraphs with which the Appellant was required to comply. Those sub-paragraphs require the Appellant to provide:

- (a) a copy of the personal liability notice or notices which the appellant is appealing;

- (b) a copy of all documents enclosed with that decision notice or those decision notices when received by the appellant, in particular the penalty notice(s) to the company which underpinned the personal liability notice(s);
- (c) copies of the VAT returns the Appellant wants the opportunity to “correct”;
- (d) an explanation of-
  - (i) how the appellant could achieve such correction now he is no longer a director of the company;
  - (ii) what the amounts in each return would be corrected to if he could have the amounts corrected; and
  - (iii) whether, if the returns cannot now be corrected, the appellant’s assertion that the amounts in them are wrong can still help his appeal against the personal liability notice;
- (e) an explanation of whether ground 2 relates to a refusal to allow VAT claimed because of a lack of invoices (and failure to provide opportunity to provide them) or whether this is effectively the same point as in ground 1, that is, that the VAT amounts in the returns is wrong;
- (f) an explanation of how ground 2, as clarified pursuant to subparagraphs (e) above, helps the appeal;
- (g) the authority for the appellant’s proposition that he should not be liable because he cannot appeal the underlying company debt;
- (h) the reasons why the appellant disagrees with HMRC’s decision to issue a personal liability notice. For example, does he say that there was no inaccuracy except so as to result in less tax being due (and that that suffices)? or that any inaccuracy was not deliberate? or that, if deliberate, it was not attributable to him? (it seems he says this last one, but it lacks sufficient detail; see the next subparagraph);
- (i) the name of the third party who or which the appellant say was responsible for handling these matters and caused the failure;
- (j) an explanation of the arrangements by virtue of which that third party is said to have had that responsibility;
- (k) the reasons why it is said to be the third party’s failure and not the appellant’s;
- (l) it will be very far from sufficient merely to restate reliance on *Perrin* or on *HMRC v Hok* [2012] UKUT 363 (TCC);
- (m) a copy of the decision relating to SDLT that the appellant is appealing;
- (n) authority for the proposition that the property being uninhabitable means without more that there should be no liability;
- (o) what exactly is meant by the submission having been cancelled. This includes when it was submitted, to whom, when it was cancelled and to whom the purported cancellation was sent and what the purported cancellation said;
- (p) authority for the proposition that cancellation of a submission helps an SDLT appeal;
- (q) a reply to HMRC’s response to Direction (1) above;
- (r) for any case law relied upon, the correct case names and citations; see paragraph 9(3) and (5) above.

24. HMRC provided their required clarification to the FTT and to the Appellant on 2 June 2025, and so complied with their obligations.

25. In the early hours of 8 July 2025, the Appellant emailed the FTT:

Further to the directions of Judge Perez dated 12 May 2025, and in response to HMRC's assertion that there is no valid SDLT appeal before the Tribunal, I write to clarify the following:

There was **no completion of the transaction**, and therefore **no registration at HM Land Registry** in relation to the purported property transaction that is the subject of HMRC's SDLT position. As such, **no effective chargeable land transaction occurred** under the meaning of **Schedule 2, Paragraph 1 of the Finance Act 2003**.

Accordingly, HMRC's basis for asserting liability to SDLT is fundamentally flawed. The SDLT regime is transaction-based, and the charge arises only upon the effective completion of a land transaction as defined by the legislation. As confirmed in **Hanuman Commercial Ltd v HMRC [2018] UKFTT 0565 (TC)**, the Tribunal found that where there is no actual completion or substantial performance of a land transaction, **no SDLT liability arises**, and any purported assessment made by HMRC would be void.

Further, in **Vardy Properties and another v HMRC [2012] UKFTT 564 (TC)**, the Tribunal accepted that where no registrable disposition occurred and no consideration was ultimately paid, there was **no effective transaction** giving rise to an SDLT charge. This aligns with the general principle that **HMRC cannot impose SDLT where the transaction was never completed and was not registered at the Land Registry**.

In light of this, the basis of HMRC's decision is both procedurally and substantively defective, and I submit that my appeal is valid in so far as it challenges an incorrect determination of tax liability in circumstances where no liability can lawfully arise.

I remain available to provide any further information the Tribunal may require and respectfully request that this matter now proceed in line with the Tribunal's overriding objective to deal with cases fairly and justly.

26. Despite subparagraph 2(r) of Judge Perez's Unless order, the first of the case citations provided by the Appellant in this email is incorrect. While the second citation is correct, neither of these cases support the propositions suggested by the Appellant. For the reasons given above, I find that the text of this email was generated by AI, and not subsequently checked or reviewed by the Appellant.

27. HMRC responded to the Appellant, also on 8 July 2025, to note:

I would respectfully draw your attention back to the directions made by Judge Perez on 12<sup>th</sup> May 2025, and specifically Paragraph 18(2) which sets out what the Tribunal requires from yourself and what is needed in order that HMRC can respond to your appeal in a statement of case. These directions are to be complied with by 11 July 2025 being 60 days from the date of the directions. I enclose a further copy of the said directions for your information.

28. Shortly after HMRC's reply, still on 8 July 2025, the Appellant emailed the FTT:

I refer to the Tribunal's directions dated 12 May 2025, and provide the following response in respect of the appeal and HMRC's submissions:

**1. Personal Liability Notice and VAT Grounds**

I acknowledge the Tribunal's identification of deficiencies in my original

Notice of Appeal and subsequent correspondence regarding the personal liability notice and VAT issues. I am in the process of compiling and clarifying the information requested, including copies of the personal liability notice, supporting documents, VAT returns, and further particulars of my grounds of appeal. I will submit these within the 60-day deadline.

## **2. Stamp Duty Land Tax (SDLT) Grounds**

Regarding the SDLT ground (Ground 5 in the Notice of Appeal), I confirm the following:

There was **no completion of a registrable transaction** at HM Land Registry in relation to the disputed property transaction. Consequently, **no SDLT liability arose**.

The SDLT submission was made but subsequently **cancelled before any tax was due or paid**, and therefore there was no loss to HMRC.

The property was **uninhabitable** at the relevant time, supporting my contention that the SDLT chargeable event did not arise.

## **3. Supporting Case Law**

The above position is supported by established First-tier Tribunal decisions:

**Hanuman Commercial Ltd v HMRC [2018] UKFTT 0565 (TC):** The Tribunal held that where no registrable disposition has taken place, SDLT liability cannot arise.

**Vardy Properties v HMRC [2012] UKFTT 564 (TC):** Liability for SDLT depends on the completion of a registrable land transaction, which did not occur here.

**Moulsdale t/a Moulsdale Properties v HMRC [2021] UKFTT 271 (TC):** Where penalties relate to non-payment of SDLT and no tax loss occurs due to procedural cancellation, penalties should not be enforced.

**Peter Jackson (Jewellers) Ltd v HMRC [2009] UKFTT 246 (TC):** Supports that penalties or charges should not be imposed without a tax loss or valid chargeable transaction.

## **4. Further Clarifications**

The SDLT submission was made on [insert date if known] (sic), subsequently cancelled on [insert date] (sic), with written confirmation received from HMRC [if applicable] (sic).

No payment or tax loss arose.

The appeal is therefore properly made against HMRC's assertion of SDLT liability and associated penalties in circumstances where no lawful charge arises.

## **5. Response to HMRC's Position**

I note HMRC's position that SDLT appeals must be distinctly made. I am content to provide a separate appeal or amended Notice if required, but respectfully maintain that my appeal as presently made is valid and should be permitted to proceed.

I will provide the outstanding particulars and documents as directed by the Tribunal within the time limits set. I appreciate the Tribunal's consideration and remain willing to assist further as necessary.



29. It is obvious from this body of this email that the Appellant had not inserted the additional text required under the heading of “4. Further Clarifications”. I find that this email was also generated by AI, and not checked or reviewed by the Appellant.

30. As before, the cases cited by the Appellant in this email are AI hallucinations. The third case cited by the Appellant has an incorrect citation. The fourth case cited by the Appellant has the correct citation but neither of these two additional cases support the proposition suggested by the Appellant.

31. It is clear that these two emails do not satisfy the requirements of Judge Perez. This was accepted by the Appellant in the first paragraph of the Appellant’s second 8 July 2025 email where he stated that he was in the process of compiling documents to be submitted.

32. On 9 July 2025, HMRC responded to the Appellant’s emails of 8 July 2025:

I wish to stress the importance of fully complying with the tribunal directions, the nature of the Order made by the tribunal is that if you fail to provide the information set out in direction 2, that failure could lead to your appeal being struck out.

I note you confirm you will provide the required information within the 60-day deadline, and I look forward to receiving the same.

33. The deadline of 11 July 2025 set by Judge Perez passed without the FTT receiving any further response from the Appellant.

34. On 15 July 2025, HMRC emailed the FTT:

We note that the Appellant has failed to comply with Judge Perez’ directions dated 12<sup>th</sup> May 2025, despite confirming they will provide the required further and better particulars by the direction deadline, being 11<sup>th</sup> July 2025.

With reference to the Unless Order under Rule8(3)(a) made by Judge Perez and with the background of this case in mind, the Respondents respectfully submit that the Appellant has been provided with sufficient opportunity to provide further and better particulars and has failed to provide the information required by direction 18(2). Therefore, the Respondents respectfully request the tribunal consider effecting the Unless Order made by Judge Perez and strike out the Appellant’s appeal.

35. Approximately an hour later, still on 15 July 2025, the Appellant emailed the FTT:

I write in response to HMRC’s correspondence dated 15 July 2025, in which they request the Tribunal to strike out the above-referenced appeal pursuant to the Unless Order under Rule 8(3)(a), as set out in the directions of Judge Perez dated 12 May 2025.

#### **1. Request for 21 Days’ Grace**

I respectfully request that the Tribunal exercise its discretion to grant a **21-day extension**, until **5 August 2025**, to allow full compliance with the requirements set out in direction 18(2).

The delay in full compliance has been caused by [insert brief explanation if needed] (sic), and I stress that it is **not due to any disregard** for the Tribunal’s authority or process. I am acting in good faith and making every effort to comply.

#### **2. Unrepresented Appellant Against a Public Authority**

I am a self-represented individual appellant with limited resources, acting alone in complex proceedings **against a publicly funded, multi-billion-**

**pound law enforcement agency** (HMRC). I respectfully ask the Tribunal to take into account the practical challenges I face in navigating this process without legal representation or professional support.

Despite these constraints, I have engaged with both the Tribunal and HMRC and made efforts to provide the information requested. The issues raised in this appeal are substantial and involve important questions of liability and fairness.

### **3. Proportionality and the Overriding Objective**

In line with the overriding objective set out in Rule 2 of the Tribunal Procedure Rules, and the case of **Data Select Ltd v HMRC [2012] UKUT 187 (TCC)**, I respectfully submit that striking out the appeal at this stage would be **disproportionate and unjust**, particularly where no prejudice is caused to HMRC by a short additional extension.

The Tribunal has discretion to ensure that cases are dealt with fairly and justly, and I believe that allowing this extension would serve the interests of justice and allow the matter to be resolved on its merits.

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### **Conclusion**

I respectfully request that the Tribunal:

**Declines HMRC's request** to strike out this appeal under Rule 8(3)(a); and

**Grants an additional 21 days, to 5 August 2025**, for full compliance with direction 18(2) of the Tribunal's directions issued on 12 May 2025.

I remain committed to complying in full and appreciate the Tribunal's consideration of this request, made in the interests of justice and fair process.

36. I find the text of this email was generated by AI. As with the earlier AI generated emails sent by the Appellant, the instruction in square brackets remained unheeded. In this instance that resulted in the Appellant failing to give any reason for his delay in complying with Judge Perez's Unless order.

37. At 8:30 pm on the following evening, 16 July 2025, the Appellant was admitted to the cardiac care unit of his local hospital. On the morning of 17 July 2025, the Appellant emailed HMRC and the FTT:

I am in hospital having diffrrrd a heart attack (sic)

38. The FTT file came before Judge Blackwell. On 22 July 2025, Judge Blackwell noted that the Appellant had suffered a heart attack, and also that the Appellant had used AI to assist his earlier emails. Judge Blackwell decided to issue a further Unless order to the Appellant. As Judge Blackwell explained, this order would give the Appellant two further months to comply but this form of Unless order would result in the automatic striking out of the appeal if the Appellant did not comply. Judge Blackwell directed:

Unless the Appellant not later than 5 pm on 22 September 2025 complies with the directions on paragraph [18(2)] of the direction issued by Judge Perez on 15 July 2025 AND at the same time provides the Tribunal and HMRC with a medical certificate on headed paper confirming that he has been hospitalised with a heart attack, such certificate containing contact details that will allow its authenticity to be verified, then these proceedings will be struck out automatically pursuant to rule 8(1) without further reference to the parties.

39. There is a typographical error in that Judge Perez issued her directions on 12 May 2025 (and not 15 July 2025). However, as there has only been one set of directions issued by Judge

Perez in this matter, I find there was no likelihood of either of the parties being confused by this aspect of Judge Blackwell's order.

40. On 4 September 2025, the Appellant sent the following email to the FTT:

#### SKELETON ARGUMENT ON BEHALF OF THE APPELLANT

##### A. Introduction

This skeleton argument is filed on behalf of the Appellant, Mr Omar Rafique, in respect of his appeal against HMRC's VAT assessment and enforcement demands totalling £51,203.07.

The Appellant maintains that the assessment is excessive, procedurally flawed, and was issued without affording him a fair opportunity to challenge or correct VAT returns.

The Appellant further seeks an extension of time to comply with Tribunal directions, on the basis of serious health issues and the overriding objective of dealing with cases justly.

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##### B. Issues

The key issues for determination are:

- (i) Whether the VAT assessment and demands issued by HMRC are valid and enforceable in the absence of a breakdown and opportunity to correct returns.
- (ii) Whether HMRC acted fairly and proportionately in issuing demands without proper clarity.
- (iii) Whether the Appellant should be granted an extension of time to comply with Tribunal directions, in light of his serious health condition.

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##### C. Relevant Facts

HMRC issued letters dated 2 April 2024 demanding £51,203.07, threatening bankruptcy, but without providing a breakdown of the sums said to be owed.

The Notice of Appeal was lodged on 4 April 2024. The grounds of appeal stated that the VAT amounts were incorrect because the company made eatable supplies and had not been given the opportunity to correct returns.

On 12 May 2025, the Tribunal issued directions. On 15 July 2025, the Appellant requested more time, and on 17 July 2025 informed the Tribunal he was hospitalised due to a heart attack.

The Appellant has acted in good faith and wishes to pursue his appeal fully.

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##### D. The Law

Tribunal Procedure Rules: Rule 2 (overriding objective) requires cases to be dealt with fairly and justly, which includes ensuring parties are on equal footing and avoiding unnecessary formality. Rule 5(3)(a) empowers the Tribunal to extend time limits.

Fairness in HMRC decision-making: In *R v IRC, ex parte Unilever plc* [1996] STC 681, the Court of Appeal held HMRC must act fairly and consistently, and not abuse its powers.

Opportunity to challenge assessments: In *Kukadia v HMRC [2012] UKUT 316 (TCC)*, the Tribunal stressed the importance of taxpayers being given a fair chance to dispute HMRC assessments before enforcement.

Extensions of time and illness: In *Data Select Ltd v HMRC [2012] UKUT 187 (TCC)*, the Upper Tribunal held that extensions depend on all circumstances, including seriousness of default and reasons. Illness is a valid ground.

In *Martland v HMRC [2018] UKUT 178 (TCC)*, the Tribunal confirmed that the overriding objective can justify granting extensions even after procedural failures.

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#### E. Application of Law to Facts

HMRC's failure to provide a breakdown of the £51,203.07 denied the Appellant the ability to understand or challenge the assessment. This is inconsistent with the principle of fairness (*Unilever*).

Demands threatening bankruptcy, without clarity, were disproportionate and deprived the Appellant of the right to be heard (*Kukadia*).

The Appellant's hospitalisation with a heart attack constitutes a serious and compelling reason for delay. The Tribunal should exercise its discretion to extend time in line with *Data Select* and *Martland*.

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#### F. Relief Sought

The Appellant respectfully requests that the Tribunal:

- (i) Grants an extension of time for compliance with directions.
- (ii) Directs HMRC to provide a full breakdown of the alleged VAT liability.
- (iii) Permits the appeal to proceed to a substantive hearing on the merits.

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#### G. Conclusion

The Appellant has acted in good faith and wishes to pursue his appeal properly. Denying the extension would cause injustice.

For the reasons set out above, the Tribunal is respectfully asked to grant the relief sought.

41. I find that the text of this email was AI generated. Of the four cases cited by the Appellant, one does not appear to exist at all, and the other three do not support the proposition contended.

42. Critically, there were no attachments to the Appellant's email of 4 September 2025.

43. The deadline of 22 September 2025, imposed by Judge Blackwell, passed with no further email from the Appellant. I find that the Appellant had not provided the FTT with any of the documents required by either Judge Perez or Judge Blackwell.

44. On 24 September 2025, HMRC emailed the FTT:

It is respectfully submitted that the Appellant's email does not comply with Judge Perez directions of 12<sup>th</sup> May 2025, nor with Judge Blackwell's direction of 22<sup>nd</sup> July 2025 whereby it was directed that unless the Appellant complies with the directions in paragraph 18(2) of Judge Perez's directions and at the same time provides the Tribunal and HMRC with a medical certificate on headed paper confirming that he has been hospitalised with a heart attack, such

certificate containing contact details that will allow its authenticity to be verified, then these proceedings will be struck out automatically pursuant to rule 8(1) without further reference to the parties.

I therefore respectfully request confirmation that the Appellants appeal has been struck out in accordance with the Unless Order dated 22<sup>nd</sup> July 2025.

45. Very shortly afterwards, the Appellant emailed the FTT stating:

apologies i thought i had attached it (sic)

46. Attached to the Appellant's email of 24 September 2025 was a pdf hospital discharge summary. This showed that the Appellant had been admitted to hospital on the evening of 16 July and discharged on the afternoon of 19 July 2025. Medication had been prescribed to the Appellant. The summary notes that a follow up appointment would be arranged in 6-8 weeks of the discharge. A date for that follow up appointment ought to have been arranged by the time that the Appellant emailed the FTT on 24 September 2025, but the Appellant did not then (and has not subsequently) provided the FTT with any further medical information.

47. The FTT file was then referred to me for the first time. On 4 October 2025, the FTT issued a letter on my instructions, confirming the automatic striking out of this appeal due to the Appellant's failure to comply with either part of Judge Blackwell's Unless Order. In confirming that the appeal was automatically struck out, I explained:

For the reasons set out below, I confirm that the Appellant has not complied with the Unless order issued by Judge Blackwell on 22 July 2025. In accordance with that Unless order and Rule 8(1) of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009, this appeal was automatically struck out after 5 p.m. on 22 September 2025.

#### Reasons

Judge Blackwell issued an automatic Unless order. It took effect automatically unless the Appellant complied with every aspect of the order issued by Judge Blackwell by the deadline of 5 p.m. on 22 September 2025. Judge Blackwell required the Appellant to:

- comply with paragraph 18(2) of Judge Perez's order of 12 May 2025, and
- provide a certificate on headed paper confirming he had been hospitalised with a heart attack.

Paragraph 18(2) of Judge Perez's order listed 18 separate matters that the Appellant was required to address. This included requiring the Appellant to provide:

- a copy of the personal liability notice issued to him,
- a copy of all documents issued with the personal liability notice, including a copy of the penalty issued to the company,
- a copy of every VAT return that the Appellant wanted the opportunity to correct, and
- a copy of the SDLT decision that the Appellant wanted to appeal.

The Appellant was also required to provide much better explanations of the sparse grounds that he had initially filed, to answer specific points raised by Judge Perez, and to provide authority for the propositions that he had asserted, with the correct citation for each authority he relied upon.

By the deadline of 5 p.m. on 22 September 2025, all that the Tribunal had received from the Appellant was an email, sent on 4 September 2025. There

were no attachments to that email. The absence of any attachments makes it obvious that the Appellant had failed to provide a copy of any of the documents that Judge Perez ordered him to provide, and had failed to provide a copy of the medical evidence that Judge Blackwell had ordered him to provide.

48. This was the basis on which the appeal was confirmed to be automatically struck out.

49. In the letter I dictated, I then went on to explain why documents had been required, and to address the Appellant's application for a further extension of time:

The reason that the Tribunal requires copies of the decisions listed by Judge Perez is that Rule 20 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 requires any person starting an appeal to provide "a copy of any written record of any decision appealed against, and any statement of reasons for that decision, that the appellant has or can reasonably obtain". Therefore, irrespective of the Appellant's non-compliance with Judge Blackwell's Unless order, the appeal is invalid without copies of the decisions that the Appellant wishes to appeal.

In his email of 4 September 2025, the Appellant has provided what is described as his skeleton argument. This appears to be generated by AI and does not engage at all with the detailed and careful decision of Judge Perez, which was written to elicit the documents and information that the Tribunal needs to progress this appeal. The Appellant has not addressed any of points that Judge Perez required to be addressed.

In his skeleton argument, the Appellant also asks for an extension of time to comply with the Directions on the basis that he has been unwell. This application is refused for the following reasons:

After the deadline set out in Judge Blackwell's Unless order (and at the prompting of HMRC), on 24 September 2025, the Appellant provided a hospital discharge summary, showing that he had spent three nights in hospital in mid-July 2025 and he would have an ongoing requirement to take heart medication. However, the appeal was filed on 4 April 2024. The Appellant should have provided copies of the decisions he wishes to appeal against at the time of making the appeal, more than a year and a half ago. The Appellant has already had more than four months to provide the explanations Judge Perez directed him to provide. I do not accept that the distress of being in hospital for three nights, and the ongoing requirement to take heart medication is such that the Appellant has not been able to comply with either Judge Perez's Unless order or Judge Blackwell's Unless order. Although the Appellant has stated that he wishes to pursue his appeal fully, that desire does not appear to extend to complying with the Unless orders that have been issued to him. Even the very limited responses he has provided to the Tribunal appear to have come only after the prompting of HMRC.

#### Right to reinstatement

The Appellant has the right to apply for the proceedings to be reinstated but such an application must be made in writing and received by the Tribunal within 28 days from the date of this letter. Such an application should be supported by reasons, including an explanation of why the direction was not complied with. The Appellant should note that unless he has complied with the full terms of Judge Perez's Unless order by the time he makes his application for reinstatement, and provides copies of the decisions he wishes to appeal, it is very unlikely that this appeal will be reinstated.

50. On 28 October 2025, the Appellant filed his application for reinstatement to the FTT. This was described as a “draft appeal against strike-out and application for reinstatement”. Although the email bore the date on which it was sent, the body of the email contained the following text:

**Date:** [Insert date before deadline – within 28 days of letter]

51. The body of the application stated:

I respectfully apply under **Rule 8(5)** of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 for the **reinstatement** of my appeal, which was struck out on 22 September 2025 following the Unless Order issued by Judge Blackwell and the subsequent ruling by Judge Bailey dated 4 October 2025.

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### 1. Background

I lodged this appeal on 4 April 2024, challenging several decisions and personal liability notices issued by HMRC. Following directions issued by Judge Perez and Judge Blackwell, I was required to supply specific documents and a medical certificate confirming my hospitalisation.

Unfortunately, due to **a serious heart attack in mid-July 2025**, subsequent **hospitalisation**, and **ongoing cardiac treatment and medication**, I was unable to gather and submit the required materials in full by the imposed deadline.

I accept that not all documents were attached to my email of 4 September 2025; however, this omission was **not willful non-compliance**, but the direct result of severe health difficulties, reduced mobility, and medical advice to limit stress during recovery.

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### 2. Medical and Exceptional Circumstances

I was hospitalised for three nights in July 2025 following a cardiac event, as confirmed by my **hospital discharge summary** and **GP follow-up documentation**.

Since discharge, I have continued to suffer from dizziness, weakness, and restricted capacity. These health challenges significantly impaired my ability to manage administrative tasks and communications with the Tribunal during the relevant period.

The Tribunal has discretion to reinstate an appeal where the failure to comply is due to circumstances beyond the appellant’s reasonable control. This principle has been recognised in **Martland v HMRC [2018] UKUT 178 (TCC)**, where the Upper Tribunal emphasised that an appellant’s serious illness constitutes a sufficient ground to consider reinstatement where justice so requires.

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### 3. Legal Grounds for Reinstatement

#### (a) Rule 8(5) – Reinstatement

Rule 8(5) provides that a party may apply for reinstatement of proceedings struck out under Rule 8(1). The Tribunal must consider all the circumstances and the overriding objective to deal with cases fairly and justly.

**(b) Rule 5(3)(a) – Extension and Relief**

The Tribunal retains the power to extend time and grant relief from sanctions where justified.

In **Data Select Ltd v HMRC [2012] UKUT 187 (TCC)**, Morgan J outlined the test for extensions of time, requiring consideration of:

The purpose of the rule breached,

The consequences of non-compliance,

Whether the failure was intentional,

Whether there is a good explanation, and

What prejudice each party would suffer.

Applying these factors:

The non-compliance was **not intentional**,

There is a **credible medical explanation**,

Reinstatement would cause **no prejudice to HMRC**, and

Refusal would **deprive me of my statutory right of appeal**.

**(c) Proportionality and Fairness**

In **BPP Holdings Ltd v HMRC [2016] UKSC 55**, the Supreme Court stressed that sanctions must be proportionate and just.

Here, striking out the appeal entirely, given my proven medical incapacity and subsequent willingness to comply, is **disproportionate**.

**(d) Illness and Fairness in Procedure**

In **R (Katib) v HMRC [2019] EWCA Civ 1642**, the Court of Appeal confirmed that fairness requires tribunals to take into account genuine medical conditions that impede compliance, and that inflexible adherence to procedure can breach natural justice.

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**4. Steps Taken Since the Strike-Out**

Since receiving the Tribunal's letter, I have taken immediate steps to remedy the position:

Collating the **documents requested by Judge Perez**, including VAT returns, the personal liability notice, and associated materials.

Securing **medical documentation** confirming my hospitalisation and ongoing cardiac issues.

Preparing a detailed **response to each paragraph of Judge Perez's order**.

These are now being assembled for immediate submission upon reinstatement.

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**5. The Interests of Justice**

Refusing reinstatement would cause irreparable prejudice to me as a taxpayer seeking to challenge HMRC's determinations, while reinstatement would not prejudice HMRC, who remain fully aware of the subject matter of the appeal.



In light of my medical incapacity, the principle of **fairness, proportionality, and access to justice** underpins this application.

I respectfully ask that the Tribunal exercise its discretion to reinstate my appeal and allow me to submit the required documentation.

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## 6. Relief Sought

I therefore request that:

The strike-out order dated 22 September 2025 be **set aside**;

My appeal be **reinstated** under Rule 8(5);

A new timetable be issued allowing 28 days for compliance with Judge Perez's directions.

52. Despite the warning in the final paragraph of the strike-out confirmation letter, and despite the Appellant's statement that he had already collated all the relevant documents required by Judge Perez and Judge Blackwell, the Appellant did not provide any of these documents with his application for reinstatement.

53. I find that the text of the Appellant's reinstatement application was generated by AI, and that that the cases cited are AI hallucinations. Two of the four cases cited have an incorrect citation, and three of these cases do not support the proposition relied upon by the Appellant.

54. The FTT directed HMRC to comment on the Appellant's reinstatement application. On 27 November 2025, HMRC provided their submissions, opposing reinstatement. HMRC set out the chronology of the appeal and continued:

Although the Respondent is sympathetic to the Appellant's medical situation, the above background outlines that the Appellant has consistently failed to comply with tribunal directions and engage with the appeal process as a whole prior to the events of mid-July 2025, this has led to the Respondent having to make two interim applications and the Tribunal two Unless orders both of which have not been complied with by the Appellant. The Respondent notes the appeal was made on 4<sup>th</sup> April 2024, over 18 months ago, and the matter has not been able to be progressed, as the Appellant has not provided sufficient detail as set out by Judge Perez, or even the decisions which the Appellant wishes to appeal. The Respondent refers to the Tribunal's correspondence dated 4<sup>th</sup> October 2025 in this regard, where it is stated "*The Appellant should note that unless he has complied with the full terms of Judge Perez's Unless order by the time he makes his application for reinstatement and provides copies of the decisions he wishes to appeal, it is very unlikely that this appeal will be reinstated*". It is respectfully submitted that the Appellant has not done so and has within his application requested another 28 days for compliance with the directions set down on 12 May 2025. It is noted that the Appellant has referred to case law, however the Respondents would submit that the overriding objective should be borne in mind when considering the same, and at this stage, the Respondents submit that it is not sufficient for the Appellant to ask for more time to comply with Judge Perez's directions of 12 May 2025.

The Respondent would refer to the tribunal's correspondence dated 4<sup>th</sup> October and Judge Bailey's comments "I do not accept that the distress of being in hospital for three nights, and the ongoing requirement to take heart medication is such that the Appellant has not been able to comply with either Judge Perez's Unless order or Judge Blackwell's Unless order. Although the Appellant has stated that he wishes to pursue his appeal fully, that desire does not appear to extend to complying with the Unless orders that have been issued

to him. Even the very limited responses he has provided to the Tribunal appear to have come only after the prompting of HMRC.” The Respondents submit that the concerns raised by Judge Bailey remain as the Appellant has not complied with the previous Unless Orders.

The Respondents would also submit that the Appellant has not provided any/sufficient medical evidence to support ongoing incapacity and inability to engage with the appeal process.

In light of the above, the Respondents respectfully submit that by not complying with the full terms of Judge Perez’s Unless Order with the reinstatement application, the Appellant has not provided assurance that were the appeal to be reinstated progression would be made. The Appellant has repeatedly not complied with tribunal directions with the first directions being 11<sup>th</sup> November 2024, some 9 months before the events of mid July 2025. It is submitted this was a serious and significant breach of two unless orders and therefore it is respectfully requested that the Appellants reinstatement application not be allowed.

55. 87 minutes later, the Appellant responded as follows to HMRC’s email:

1. Introduction

I refer to the Respondent’s representations opposing my reinstatement application of 28 October 2025 and provide the following final response in support of reinstatement.

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2. Impact of Medical Condition – Inadequately Considered

The Respondent’s submissions and reference to Judge Bailey’s comments significantly understate the impact of my hospitalisation due to a cardiac event in July 2025 and my ongoing treatment.

Established case law recognises that serious health events may materially prevent compliance with procedural deadlines:

R (Hysaj) v SSHD [2014] EWCA Civ 1633 – serious illness can constitute a “good reason” for delay where the individual is “impaired in their ability to give proper attention”.

Tameside MBC v Secretary of State [1977] AC 1014 – relevant medical circumstances must be properly considered.

It is unreasonable to expect a self-represented appellant recovering from a cardiac incident to immediately produce complex legal particulars to Tribunal specifications.

Any suggestion that I was unwilling rather than medically unable to comply is strongly refuted.

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3. Overriding Objective – Fairness Before Procedural Strictness

Under Rule 2 of the Tribunal Procedure (FTT) Rules, the Tribunal must treat parties fairly, avoid excessive technicality, and ensure proportionality.

In Data Select Ltd v HMRC [2012] UKUT 187 (TCC), the Tribunal held that delays must be balanced against:

The impact of refusal on the appellant, and

Whether it is just and proportionate to deny a hearing.

Here:

HMRC have full awareness of the nature of the dispute;

No significant prejudice would be suffered by reinstatement;

Strike-out would permanently deny access to justice regarding substantive tax matters.

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#### 4. Engagement Prior to Medical Incident

It is incorrect to suggest there was no engagement before July 2025.

6 February 2025 – Further particulars were sent to HMRC.

12 March 2025 – HMRC forwarded these to the Tribunal.

Multiple emails were made querying unclear Tribunal directions.

Extensions were requested in good faith.

In *A v HMRC* [2023] UKFTT 749 (TC), self-represented appellants should not be penalised where efforts are made to comply, and where procedural wording itself hindered progress.

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#### 5. Seriousness of Breach – Mitigated by Circumstances

While two Unless Orders were not fully complied with, the failure directly coincided with and followed a medically documented cardiac emergency. The breach was:

Serious but not deliberate;

Temporary and now resolved;

Supported by medical evidence, with additional updated documentation available if directed.

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#### 6. Request for HMRC to Clearly Specify Requirements

To progress the matter constructively, the Appellant formally requests an order that HMRC clearly and itemise what documentation, clarification, or particulars are required to:

Enable full reassessment of the disputed tax penalties;

Identify which HMRC decisions are under appeal;

Explain what explanation or corroborating material is required to allow progression;

Confirm whether HMRC are willing to engage in ADR or informal resolution consistent with the HMRC Litigation and Settlement Strategy.

This is essential to avoid further procedural impasse and is consistent with the overriding objective.

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#### 7. Proposal Going Forward

The Appellant undertakes to:

- ✓ Provide updated medical evidence within 7 days if requested;
- ✓ Submit full amended grounds of appeal and decision notices within 14 days of reinstatement;
- ✓ Engage constructively and comply with all subsequent directions.

This provides the Tribunal with assurance regarding progression.

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#### 8. Relevant Case Law Supporting Reinstatement

| Case                                         | Principle                                |
|----------------------------------------------|------------------------------------------|
| R (Hysaj) v SSHD [2014]<br>EWCA Civ 1633     | Illness can justify delay.               |
| Data Select Ltd v HMRC [2012] UKUT 187 (TCC) | Fairness over formality.                 |
| Martland v HMRC [2018] UKUT 178 (TCC)        | Strike-out is last resort.               |
| A v HMRC [2023] UKFTT 749 (TC)               | Support for self-represented appellants. |

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#### 9. Conclusion

For the reasons given above:

The Appellant's non-compliance was caused by serious medical incapacity;

There has been genuine effort to engage both before and after the health incident;

HMRC have suffered no substantial prejudice;

The overriding objective strongly supports reinstatement;

Refusal would be disproportionate and deny access to justice.

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The Appellant respectfully requests that:

The reinstatement application is granted;

A new compliance timetable is issued; and

HMRC is directed to clearly specify what is required from the Appellant to allow reassessment of the disputed penalties, so case progression is possible.

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56. I find that the text of this email was generated by AI and contains factual inaccuracies. Three further cases are cited and these are also AI hallucinations. Two of these cases have an incorrect citation; none of the three support the proposition relied upon by the Appellant.

#### DISCUSSION

57. The first part of the Appellant's application of 28 October 2025 is expressed to be a draft appeal against the confirmation of automatic strike-out. The relief sought is for the strike-out confirmation to be set aside.

58. The FTT's confirmation that an appeal has been struck out for lack of compliance with an Unless order can be either an administrative act or a judicial decision. While, as Judge Perez

had anticipated, there are circumstances in which a judge would need to make an assessment of material provided in order to make a decision about compliance, in this case the assessment was simply that no documents at all had been provided to the FTT by the deadline in Judge Blackwell's Unless order, and so – as the Unless order required documents to be provided – the Appellant could not have complied with Judge Blackwell's Unless order. I consider the assessment made in this case – i.e. that no documents had been provided when the Unless order required (at least) five documents to be provided – is closer in nature to an administrative act than a judicial decision.

59. The Appellant has asked for the strike out confirmation to be set aside, but he has not explained on what basis he considers it would be appropriate for the FTT to set aside the strike out confirmation. The Appellant has accepted he did not provide the FTT with the documents required by Judge Blackwell by the deadline imposed, despite being aware of the obligation. The strike out confirmation is a consequence that flows automatically from the Appellant's admitted breach.

60. For these reasons, this part of the Appellant's application is refused.

61. The main part of the Appellant's application is for the reinstatement of his appeal.

62. The appropriate way for the FTT to approach an application to reinstate an appeal that was struck out automatically for failure to comply with an Unless Order is set out in *Chappell v The Pension Regulator* [2019] UKUT 209 (TCC). In *Chappell*, the Upper Tribunal held that it was appropriate to follow the three stage approach set out in *Martland v HMRC* [2018] UKUT 178 (TCC) but with relevant revisions. This approach has been re-approved by the Upper Tribunal in *Breen v HMRC* [2023] UKUT 00252 (TCC).

63. Although for a short time some doubt had been cast upon the weighting of factors at the third stage of the three stage approach in *Martland*, the appropriateness of this weighting has been affirmed by the Court of Appeal in *Medpro Healthcare Limited v HMRC* [2026] EWCA Civ 14.

64. The three stage approach of *Martland* is:

(1) Establish the length of the delay. If it was very short (which would, in the absence of unusual circumstances, equate to the breach being "neither serious nor significant"), then the FTT "is unlikely to need to spend much time on the second and third stages" - though this should not be taken to mean that applications can be granted for very short delays without even moving on to a consideration of those stages.

(2) The reason (or reasons) why the default occurred should be established.

(3) The FTT can then move onto its evaluation of "all the circumstances of the case". This will involve a balancing exercise which will essentially assess the merits of the reason(s) given for the delay and the prejudice which would be caused to both parties by granting or refusing permission.

65. From paragraph 86 of *Chappell* onwards, the Upper Tribunal considered whether it was appropriate in a reinstatement application for the FTT to take into account the underlying merits of the appeal which the applicant sought to have reinstated. Judge Timothy Herrington stated:

86. In my view when considering a reinstatement application which is made following the making of an unless order, the Upper Tribunal should, consistently with what was said by the Supreme Court in *Global Torch*, generally take no account of the strength of the applicant's case. It is helpful

to set out in more detail what Lord Neuburger said at [29] of the judgment in that case:

In my view, the strength of a party's case on the ultimate merits of the proceedings is generally irrelevant when it comes to case management issues of the sort which were the subject of the decisions of Vos, Norris and Mann JJ in these proceedings. The one possible exception could be where a party has a case whose strength would entitle him to summary judgment....

66. As the Upper Tribunal then explained, with further reference to *HRH Prince Addulaziz Bin Mishal Bin Abdulaziz Al Saud v Apex Global Management Limited* [2014] UKSC 64 ("*Global Torch*"), the general principle is that the merits of a party's case are not taken into account when a tribunal or court makes a case management decision. The exception, noted by Lord Neuburger, is where an applicant's case is so weak that the other party would succeed in summary judgment. The Upper Tribunal considered the analogous test in the Upper Tribunal was an application to strike out on the basis that there was no prospect of the applicant's case succeeding. In *Chappell*, the Upper Tribunal concluded:

94. It follows from what I have said that I should not take account of the merits of the case to the extent laid down by Proudman J in *Pierhead Purchasing*. In that context, I observe that *Global Torch* was decided after *Pierhead Purchasing* and as it is a judgment of the Supreme Court I am of course bound to follow it, again applying the principle that the tribunals should adopt by analogy the approach taken in the courts to matters of this kind.

67. The Upper Tribunal then concluded:

99. In the light of the analysis set out above, in applying the overriding objective when considering the reinstatement application, I will follow the three stage approach set out at [44] of *Martland* as quoted above, adapted so as to take account of the fact that this is a reinstatement application rather than an application to make a late appeal. In that regard, at stage one, I will consider the seriousness and significance of the breach of the Unless Order, taking account also of the previous breaches of the Rules that led to the making of the Unless Order.

100. ...

101. I shall only consider the merits of Mr Chappell's reference to the extent that it appears that TPR's case has any feature such as those that I have described at [93] above.

68. Therefore, in considering this application for reinstatement, I must apply the three stage approach set out in *Martland* as varied by the extracts quoted above, but I should only take into account the merits of the Appellant's appeal if I conclude that those merits are either very weak or very strong.

### ***The merits of the Appellant's appeal***

69. Given that approach, it is convenient to begin with a consideration of the merits, and an assessment of whether the Appellant's case is either so weak that HMRC would succeed in an application to strike it out, or is so strong that the Appellant would succeed in an application for summary judgment (were such a procedure available in the FTT). This consideration should be brief and should not descend into a detailed analysis of the underlying merits of the appeal.

70. The obvious difficulty for the FTT in assessing the relative strength or weakness of the Appellant's case here is that (despite the original FTT direction and two subsequent Unless

orders) the Appellant has yet to identify the decisions he wishes to challenge, provide copies of those decisions, or provide grounds of appeal against those decisions.

71. There are two ways that I could approach the assessment of the strength or weakness of the Appellant's case here. The first approach would be to take the view that, because it is the Appellant's own failure to identify the decisions he wishes to challenge, I should assume there is very limited merit to the Appellant's underlying appeal. That is on the basis that a party with a meritorious case would not shy from telling the FTT which decisions he was challenging, and why. The second approach is to consider the Appellant's prospects of success with the proceedings as they are currently constituted, i.e. without the Appellant having provided sufficient details of the decision(s) being challenged for the FTT to be able to identify those decisions.

72. There is limited distinction in practice in the circumstances of this case, but I have concluded that the second approach is the one I should follow. This approach best reflects the position in which the parties currently find themselves and the position that the appeal would be in immediately upon reinstatement (if this appeal was to be reinstated).

73. In following this second approach I have concluded that HMRC would be likely to be successful in an application to strike out this appeal if it were to be reinstated. This is because the Appellant has not identified the HMRC decisions that he seeks to challenge and he has not provided copies of those decisions (or explained why he cannot provide copies). The Appellant has also not provided grounds to explain why he considers these decisions are wrong in fact and/or law. On 8 July 2025 (before he suffered his heart attack) the Appellant stated that he was in the process of collating those documents and grounds, and in his reinstatement application of 28 October 2025 the Appellant stated that the documents and information had been collated and ready to send. However, despite the warning in the strike out confirmation, that material has still not been sent to the FTT. In addition, despite telling the FTT that the material is ready, the Appellant has also asked for an additional 28 days (in his email of 28 October 2025) to comply with the two Unless orders, and then asked for an additional 14 days (in his email of 27 November 2025). Those two requests for additional time, combined with the failure to provide the material when making the reinstatement application, suggest that – two years on from the appeal being filed – the Appellant still is not in a position to provide the FTT with copies of the decisions he wishes to appeal against (or reasons why he cannot provide copy decisions), or grounds of appeal against those decisions. The absence of relevant decisions and sufficient grounds is a fatal flaw in the Appellant's case. Therefore, in conducting the balancing exercise at stage three of *Martland*, the lack of merits of this appeal is a factor which weighs against reinstatement.

74. Having reached that conclusion, I turn to the three stage approach set out in *Martland*.

#### ***The first stage of Martland***

75. The first stage is for me to consider the seriousness and significance of the breaches by the Appellant. It is appropriate for me to take into account the whole history of these proceedings prior to the striking out, not merely the final breach of the second Unless Order as, taken cumulatively, all of those breaches led to the making of the second Unless Order.

76. The entirety of these proceedings has consisted of the FTT trying to ascertain what the Appellant is seeking to challenge. As set out in the chronology above, despite the time that has passed, the Appellant has failed to provide the FTT with either the copy documents, or the grounds of appeal, that have been directed by the FTT. Given that more than two years have elapsed since the proceedings commenced, it is possible that the Appellant no longer has copies of those decisions (although he has not said that this is his reason for not complying with the FTT directions or Unless orders). But, even if this is the case, it is difficult to understand why

the Appellant is not able to provide the FTT and HMRC with sufficient detail that it is possible to identify the decisions the Appellant wishes to challenge.

77. More than 18 months passed between the Appellant submitting his appeal, and the Appellant applying for reinstatement. I take into account that the Appellant was in hospital from 16-19 July 2025, and that he may still be suffering significant ill health (in the absence of any subsequent medical evidence, it is impossible for the FTT to know). However, the Appellant was put on notice by HMRC's application on 20 August 2024 that he would need to provide additional material. He was directed by the FTT on 11 November 2024 to provide additional material. Finally, on 12 May 2025, Judge Perez issued an Unless Order to the Appellant requiring that additional material. Despite the Appellant's assertion that his ill health was the reason why he did not comply, Judge Perez's deadline expired on 11 July 2025, before the Appellant became ill.

78. There is no explanation for why the Appellant did not comply with the FTT directions of 11 November 2025 or Judge Perez's Unless order of 12 May 2025.

79. Subsequent to the expiry of the deadline in Judge Perez's Unless order, the Appellant suffered a heart attack and spent three nights in hospital. Judge Blackwell took the Appellant's ill health into account when giving the Appellant two months to comply with the second Unless order (a significantly a more generous deadline than the time usually granted). However, the Appellant still did not comply.

80. The Appellant has stated that it is unreasonable for the FTT to expect him to "immediately produce complex legal particulars to Tribunal specifications". I do not accept this characterisation of what was ordered either by Judge Perez or by Judge Blackwell. Although Judge Perez's order was detailed, it should not have taken much effort for the Appellant to provide the copy documents required or answers to Judge Perez's questions. Judge Blackwell, who was aware of the Appellant's ill health, considered it appropriate to require the Appellant to comply with Judge Perez's Unless order within two months (which is not "immediately").

81. The Appellant has stated that he frequently emailed the FTT seeking advice on how to comply, but the FTT has no record of receiving any such emails. The FTT received no email (or any other communication) directly from the Appellant between the filing of his appeal on 4 April 2024 and his email of 8 July 2025.

82. Given:

- the relatively limited extent of what the Appellant had been directed to do and the generous time he was given to comply;
- the fact that the orders were to elicit a copy of the decisions that the Appellant is seeking to appeal, and his grounds of appeal against those decisions, both of which are required for the appeal to proceed; and
- the Appellant's continuing failure to provide this material to the FTT after confirmation that the appeal had been struck out;

I conclude that the Appellant's (continuing) defaults can only be seen as extremely serious and significant.

### ***The second stage***

83. The second stage is to consider the reasons for the breaches.

84. The only reason that the Appellant has given for his defaults is his ill health. However, that cannot be a reason for his failure to comply with the original FTT Directions of 11



November 2024, or Judge Perez’s order of 12 May 2025, as both of those deadlines expired before the Appellant became ill.

85. The Appellant has stated that since his heart attack he has suffered with “reduced mobility, and medical advice to limit stress during recovery”, and that he also continues to suffer from “dizziness, weakness, and restricted capacity”. The Appellant further states that these “health challenges significantly impaired my ability to manage administrative tasks and communications with the Tribunal during the relevant period”. The Appellant has not provided any medical evidence to support any of these assertions. However, taking these at face value, these factors still do not explain why – over the nine months since his heart attack – the Appellant has failed to provide the FTT with copies of the decisions he wishes to challenge (documents he states are already collated) or his reasons for wanting to challenge these decisions.

86. I conclude that no good explanation has been provided for the Appellant’s breaches of the FTT directions/Unless orders.

### ***The third stage***

87. The third stage of *Martland* is the balancing exercise.

88. I consider first the likely consequences if the appeal is either reinstated, or not reinstated. I look first at matters if the appeal is reinstated.

89. The Appellant has stated that if the appeal was to be reinstated then HMRC would suffer either no prejudice, or no substantial prejudice. I do not agree. If this appeal is reinstated, HMRC would suffer prejudice by being required to divert scarce public resources from other matters in order to defend these proceedings. Other taxpayers and other FTT litigants would also suffer prejudice through the time and resources of HMRC and the FTT being diverted away from their own disputes in favour of this appeal.

90. The Appellant’s continuing failure to comply with the FTT Directions or either of the Unless orders is relevant in considering whether, if this appeal is reinstated, it would be possible for the appeal to progress to a substantive hearing without delay. Here, as the Appellant has yet to provide copies, or details, of the decisions he wants to appeal, the FTT cannot progress the appeal. The Appellant has requested HMRC be directed “to clearly specify what is required from the Appellant to allow reassessment of the disputed penalties” but both the FTT (on 11 November 2024) and Judge Perez (on 12 May 2025) have already specified what the Appellant is required to provide to the FTT. Unless the Appellant complies, this appeal cannot progress; but the Appellant’s application for reinstatement, and his reply to HMRC’s opposition, both request more time to comply. This means that if the appeal was reinstated there would be more delay and further interlocutory applications and/or an application to strike out the appeal seem inevitable. It is highly unlikely that this appeal could progress directly to a substantive hearing.

91. Looking at matters, if the appeal is not reinstated, the Appellant has argued that he would suffer prejudice as refusal of his application “would deprive [him] of [his] statutory right of appeal”. However, the reason that this appeal was struck out is because the Appellant has failed to provide the documents and grounds of appeal that are required to enable him to continue exercising his statutory right of appeal. If the appeal is not reinstated that would be as a direct consequence of the Appellant’s own failure to comply with FTT Direction and two Unless orders.

92. Looking at other relevant factors, I am reminded by *Medpro*, *Martland* and *Chappell* that I should give particular importance to the need for litigation to be conducted efficiently and at proportionate cost, and to enforce compliance with rules, practice directions and orders. The history of this appeal (set out above) shows the Appellant’s repeated failure to observe FTT

time limits. In this vein, I am also reminded that in *Viking Enterprises Limited* [2020] UKFTT 306 (TC), the appellant had been issued with a two-part Unless order that required the appellant to confirm it wished to proceed and also to provide disclosure of its documents. In the context of that two-part order, at paragraph 45 of *Viking Enterprises*, Judge Sinfield stated:

Where proceedings have been struck out on the ground that an appellant has failed to comply with a direction and consequential unless order then it seems to me that any application for reinstatement should not be granted unless the appellant has complied or provided a compelling explanation for the failure to comply.

93. I take account that the merits of the appeal (as currently constituted with neither copy decisions nor grounds of appeal) are so weak that they have no reasonable prospects of success.

94. Weighing all these factors, the only factor that might weigh in favour of reinstatement is the potential consequences for the Appellant of this appeal remaining struck out. However, this factor carries relatively little weight in this case because (although the two HMRC letters that were referred to the FTT refer to bankruptcy) the Appellant has not informed the FTT about any financial consequences he might suffer if the decision(s) he wishes to appeal became final. Even if there were to be financial consequences for the Appellant if the appeal is not reinstated, and even if those consequences were severe, they would still be the result of the Appellant's own failure to comply with the FTT Directions and the Unless orders of Judge Perez and Judge Blackwell.

95. Weighing all relevant factors, I have concluded that this appeal should not be reinstated.

#### CONCLUSION

96. The balance of relevant factors is overwhelmingly against reinstating the Appellant's appeal. The Appellant's application for reinstatement is refused.

#### THE APPELLANT'S USE OF FABRICATED AUTHORITIES GENERATED BY ARTIFICIAL INTELLIGENCE

97. In his communications with the FTT, the Appellant has sent voluminous emails in which he has cited several case authorities. I have found (above) that these case authorities were hallucinated by AI.

98. I understand why a litigant in person might think that using AI could help. I am sympathetic to the possible perception of a litigant in person that use of AI might create a more level playing field. However, despite the comments made by Judge Perez when issuing the order of 12 May 2025, the Appellant does not seem to have appreciated that AI provided him with artificial case law. The majority of the cases relied upon by the Appellant either do not exist, do not support the propositions in the way stated in his emails, or they have been superseded by more recent case-law.

99. There is no bar on any person using AI to help them to write their submissions but all parties – whether legally trained or not – are under an obligation to ensure that what they submit to the FTT (or any other tribunal or court) is factually correct and true. All parties are under a duty not to mislead the FTT.

100. While litigants in person in the FTT are (entirely appropriately) given a greater degree of latitude in their conduct of the proceedings than represented parties, no person has immunity from sanction when committing a serious breach of court or tribunal rules. That is well demonstrated in *Olsen v Finansiel Stabilitet A/S* [2025] EWHC 42 (KB) where the High Court only “narrowly and somewhat reluctantly” decided against causing a summons for contempt of court to be issued to two elderly litigants in person who had provided a fabricated citation to the court.

#### **REFERRAL FOR SUMMONS FOR CONTEMPT OF COURT**

101. I am not going to make a referral for a summons for contempt of court to be issued to the Appellant here because there is no evidence that the Appellant was aware previously either of the concept of hallucinated cases (although the comments of Judge Perez should have given him pause to think), or that he should check the veracity of the cases he had cited. I very much doubt the Appellant was aware that it is a contempt of court to cite fabricated law to a court or tribunal.

102. However, the Appellant is now aware that:

- artificial intelligence can produce fabricated authorities;
- all parties, even litigants in person, are under an obligation to check the truthfulness of any submissions they make, and of any cases they cite; and
- it is a contempt of court for fabricated authorities to be cited to a court or tribunal as if they are genuine.

103. If the Appellant chooses to seek permission to appeal, he is now aware that no party is permitted to rely upon fabricated authorities, and that it is his responsibility to check that any case he relies upon is both genuine and does support the propositions he says it supports.

#### **OUTCOME**

104. For the reasons set out above:

- the Appellant's application to appeal against the strike-out confirmation, or have that confirmation set aside, is **REFUSED**
- the Appellant's application for reinstatement is **REFUSED**.

#### **RIGHT TO APPLY FOR PERMISSION TO APPEAL**

105. 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.

**Release date:**  
06 May 2026