UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER

UT Neutral Citation Number: [2026] UKUT 00075 (TCC)

Applicant: Candido Pereira Rodrigues	**Tribunal Ref: UT-2025-000089**
Respondents: The Commissioners for His Majesty's Revenue and Customs	

APPLICATION FOR PERMISSION TO APPEAL

DECISION NOTICE FOLLOWING HEARING ON 12 FEBRUARY 2026

JUDGE JEANETTE ZAMAN

1. The applicant, Candido Pereiro Rodrigues ("Mr Rodrigues"), applies to the Upper Tribunal (Tax and Chancery Chamber) for permission to appeal against the decision (the "Decision") of the First-tier Tribunal (Tax Chamber) ("FTT") released on 13 June 2024 (TC/2020/044/94).

2. Mr Rodrigues applied to the FTT for permission to appeal against the Decision on two grounds. In a decision notice released on 1 August 2025, the FTT refused permission on both grounds. On 28 August 2025 Mr Rodrigues renewed his application for permission to appeal, within the applicable time limit (the "Application"). I refused that application on the papers on 7 October 2025 (the "UT Papers Decision") and Mr Rodrigues applied for that decision to be reconsidered at a hearing.

3. The hearing took place on 12 February 2026, at which I heard from Mashood Iqbal for Mr Rodrigues. The hearing was attended by HMRC, and Ben Blakely (who had appeared for HMRC at the hearing before the FTT) did, at my request, respond to some of the submissions made by Mr Iqbal.

4. References below in the form FTT[x] are to paragraphs of the Decision.

5. Pursuant to s11(1) Tribunals Courts and Enforcement Act 2007 an appeal to the Upper Tribunal may only be made on a point of law. An application for permission to appeal must demonstrate that it is arguable that the FTT made an error of law in reaching its decision which was material to that decision. "Arguable" means an argument that carries a realistic as opposed to fanciful prospect of success.

THE APPLICATION

6. By its Decision the FTT refused permission for Mr Rodrigues to make late appeals against two PLNs (totalling £737,124.73), one of which related to a penalty issued to Pazzia Limited (the "Company") in relation to a corporation tax assessment and the second the penalty issued to the Company in relation to a VAT assessment. The PLNs were dated 27 July 2018 and the appeals were made to the FTT on 18 December 2020.

7. The Application seeks permission to appeal on the two grounds for which permission was sought from the FTT:

> (1) The FTT erred in determining the first stage of *Martland* because its decision to find that there was a significant delay in filing the appeal was not open on the available evidence; and
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> (2) The FTT erred in determining the third stage of *Martland* because either it did not or did not adequately consider all relevant circumstances by failing to weigh the prejudice which Mr Rodrigues is likely to suffer if the appeal is not admitted.

8. At the hearing Mr Iqbal continued to rely on these two grounds of appeal. I address the reasons he advanced at the hearing in support of each ground below.

9. For the reasons set out below, I am not persuaded that the FTT made an arguable error of law in making its decision and permission to appeal is REFUSED.

GROUND 1

10. Ground 1 is that the FTT erred in determining the first stage of the test in *Martland* because its decision to find that there was a significant delay in filing this appeal was not open to it on the available evidence.

11. In the UT Papers Decision I identified that this ground of appeal was in substance a challenge to the findings of fact made by the FTT, and that the Upper Tribunal, as an appellate tribunal, will not interfere with findings of fact by the FTT unless compelled to do so. The reasons for this approach have been clearly and repeatedly emphasised by the higher courts, including in *FAGE UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5 and *Volpi v Volpi* [2022] EWCA Civ 464. The reasons set out in those decisions were particularly apt given the way in which the reasons were expressed in the Application, including the criticism of the weight given to various evidence which was before the FTT.

12. At the hearing Mr Iqbal accepted that he was challenging findings or evaluative judgments of the FTT. He referred to the decision of the Court of Appeal in *Rea v Rea* [2024] EWCA Civ 169 (which concerned the validity of a will) where Newey LJ had set out the following principles:

> "41. There are of course only limited circumstances in which an appellate Court should interfere with a finding of fact made by a trial judge. Thus in Henderson v Foxworth Investments Ltd [2014] UKSC 41, [2014] 1 WLR 2600, Lord Reed (with whom Lords Kerr, Sumption, Carnwath and Toulson agreed) said at paragraph 67:
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> "in the absence of some other identifiable error, such as (without attempting an exhaustive account) a material error of law, or the making of a critical finding of fact which has no basis in the evidence, or a demonstrable misunderstanding of relevant evidence, or a demonstrable failure to consider relevant evidence, an appellate court will interfere with the findings of fact made by a trial judge only if it is satisfied that his decision cannot reasonably be explained or justified."

> 42. The position is similar with evaluative assessments. An appellate Court will not interfere merely because it might have arrived at a different conclusion. It will do so only if it considers the decision under appeal to have been an unreasonable one or wrong as a result of some identifiable flaw in reasoning, "such as a gap in logic, a lack of consistency, or a failure to take account of some material factor, which undermines the cogency of the conclusion" (see e.g. R (R) v Chief Constable of Greater Manchester [2018] 1 WLR 4079, paragraph 64, and also In re Sprintroom Ltd [2019] 2 BCLC 617, paragraphs 76 and 77).

13. Mr Iqbal's submissions at the hearing in support of Ground 1 were different to those that had been put forward in the Application. Mr Iqbal focused on the requirements in relation to service of a notice, relying on paragraph 13(1) of Schedule 24, and section 83G(1) Value Added Tax Act 1994 ("VATA 1994") (which refers in (ii) in a case where a person other than P is the appellant to the date that person becomes aware of the decision), and he submitted that the FTT had taken account of irrelevant considerations by considering the knowledge or awareness of ATS, Turpin, Azed and Co and Reliance (who had acted as advisers to either Mr Rodrigues or the Company at various times) rather than whether notice of the PLNs was given by HMRC to Mr Rodrigues.

14. Mr Iqbal took me to the two PLNs which had been issued, which were both dated 27 July 2018, were addressed to Mr Rodriguez at an address in Ashley Crescent. Mr Iqbal referred to the evidence from Officer Moore that he had sent the PLNs to Mr Rodriguez on 27 July 2018 to Ashley Crescent, with this address having been obtained by his direct tax colleague from HMRC's self-assessment system; and Mr Rodriguez' evidence that he had moved to a different address and having produced a water bill for that other address. Mr Iqbal submitted that there was a "head on collision" between this evidence and that this is what the FTT should have addressed, not the knowledge or Azed or the other advisers.

15. Mr Iqbal submitted that the FTT should then have considered an alternative position, that Mr Rodriguez became aware of the PLNs on around 18 August 2020 (after HMRC had sent them to Reliance) and, in light of the COVID extensions, he would have had nearly four months to make an appeal; and his appeal was in fact made on 18 December 2020, such that it was, on this approach, not late at all.

Discussion on Ground 1

16. The alleged error of law relied upon by Mr Iqbal was in the context of the FTT's consideration of Stages 1 and 2 of *Martland*, which it addressed together in the Decision.

17. Before addressing the Decision of the FTT, I address first Mr Iqbal's submissions in relation to requirement that HMRC give notice of the penalty and the approach to (and relevance of) awareness of Mr Rodrigues for the purposes of s83G VATA 1994.

18. The PLNs were both issued to Mr Rodrigues under paragraph 19 of Schedule 24. Paragraph 19 provides:

> "19(1) Where a penalty under paragraph 1 is payable by a company for a deliberate inaccuracy which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as HMRC may specify by written notice to the officer.
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> (2) Sub-paragraph (1) does not allow HMRC to recover more than 100% of a penalty.
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> (3) In the application of sub-paragraph (1) to a body corporate other than a limited liability partnership "officer" means -

(a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006 (c. 46)), ...

…

(5) Where HMRC have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1) -

(a) paragraph 11 applies to the specified portion as to a penalty,

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

(c) paragraph 13(2), (3) and (5) apply as if the notice were an assessment of a penalty,

(d) a further notice may be given in respect of a portion of any additional amount assessed in a supplementary assessment in respect of the penalty under paragraph 13(6),

(e) paragraphs 15(1) and (2), 16 and 17(1) to (3) and (6) apply as if HMRC had decided that a penalty of the amount of the specified portion is payable by the officer, and

(f) paragraph 21 applies as if the officer were liable to a penalty."

19. The obligation on HMRC is set out in paragraph 19(1), ie to specify "by written notice to" the officer of the company, here Mr Rodrigues, the portion of the penalty which is attributable to that officer.

20. The requirements of paragraph 13(1) (which was relied upon by Mr Iqbal) do not apply to a penalty issued under paragraph 19; paragraph 19(5) makes clear that paragraphs 13(2), (3) and (5) apply as if the notice were an assessment of a penalty. This may be a distinction without a difference here, as there is in any event the above obligation in relation to written notice in paragraph 19(1).

21. Mr Iqbal also relied on s83G VATA 1994. Section 83G(1) provides:

"(1) An appeal under section 83 is to be made to the tribunal before –

(a) the end of the period of 30 days beginning with –

(i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or

(ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or

(b) if later, the end of the relevant period (within the meaning of section 83D)."

22. Mr Iqbal relied in particular on s83G(1)(a)(ii) and the reference to the date the person becomes aware of the decision. Here, Mr Iqbal submitted that it was this limb (ii) that was relevant, on the basis that the penalties were issued to the Company (now in liquidation), and that whilst the PLNs issued to Mr Rodrigues were notices in their own right, they were derived from the penalties served on the Company and were parasitic on those notices; the logical conclusion is, he submitted, that Mr Rodrigues was another person for this purpose. Mr Iqbal submitted that the limitation period thus starts running from the date Mr Rodrigues became aware of the decision, and he must become aware from HMRC and not from anybody else.

23. I do not agree with these submissions in relation to s83G VATA 1994 which (as Mr Iqbal accepted) could not apply on any view to the PLN issued to Mr Rodrigues in relation to the corporation tax penalty which had been issued to the Company:

(1) Section 83G VATA 1994 does not apply to an appeal against a PLN. Section 83G applies to appeals under s83, and s83 sets out the matters in respect of which an appeal lies to the tribunal for this purpose. This list of matters does not include an appeal against a PLN (it does include an appeal against a VAT penalty). Moreover, there is nothing in paragraph 19 which provides that s83G has any application for this purpose.

(2) Even if this were not the case, limb (ii) can be of no application. The PLNs were issued to Mr Rodrigues, and he is seeking permission to make a late appeal against those PLNs. He is the person to whom they were issued, and is the person seeking to appeal. PLNs issued under paragraph 19 are, as Mr Iqbal recognised, notices in their own right against which an appeal may be made. That they can only be issued once a penalty is payable by a company does not mean that the individual who has received a PLN is "a person other than P" in relation to the PLN.

24. Recognising the requirements of paragraph 19(1), and that HMRC must give written notice of the specified portion of the penalty to Mr Rodrigues, I have considered the Decision of the FTT.

25. Mr Iqbal submitted that the FTT's references to Mr Rodriques having been made aware of the PLNs from other sources (including ATS, Turpin and Azed) was irrelevant (referring to FTT[139], [145], [146], [148]). He submitted it is a significant error of law for the FTT to have placed heavy reliance on the knowledge of Azed, Turpin and Reliance in making a decision on the balance of probabilities that the PLN had been served on Mr Rodrigues.

26. The FTT's discussion of *Martland* started at FTT[136]. However, by this point in its Decision the FTT had already made a large number of findings of fact in relation to the procedural background, including the role of various advisers, including ATS, Mr Armstrong of Turpin (who was authorised to act for the Company), Mr Azed of Azed & Co and Reliance, the service of the PLNs, and the subsequent correspondence.

27. The findings of fact made by the FTT included:

(1) The FTT made a finding of fact at FTT[112] that "On the same day [27 July 2018] the two PLNs were sent to the appellant's home address…". This was distinguished from the address of the Company.

(2) At FTT[114] the FTT found that on 11 September 2018 Mr Armstrong, of Turpin "contacted Officer Moore … He said that the appellant had received the PLNs…".

28. The FTT estimated the delay at FTT[137] as some 27 months after the time limit for appealing had expired. The FTT then referred at FTT[138] to the Submission document which had been filed by Mr Rodrigues, stating "it was argued at paragraph 3 that the PLNs only came to the "knowledge" of the appellant in September 2020 and "thereafter Reliance" requested copies so they were appealed timeously (given Covid-19). That is quite simply inaccurate as can be seen from the Findings in Fact".

29. It is clear that the FTT was well aware of the challenges being made by Mr Rodrigues and the question as to the service of the PLNs. Having found that the PLNs were sent to Mr Rodrigues home address, ie Ashley Crescent, the FTT addressed the submission that Mr Rodrigues was not living at this home address at FTT [176] to [179]. The FTT stated that Mr Rodrigues' evidence "just was not credible", and explained why the water bill produced for another property did not assist.

30. The FTT considered Stages 1 and 2 of *Martland* together and it is in this context that it was addressing the role and knowledge of the various advisers. It is apparent that the FTT was trying to ascertain the reasons for the delay, given not only Mr Rodrigues' position in relation

to the receipt of the PLNs (which was itself not consistent) but also the blame he was placing on his advisers, which included allegations of collusion with HMRC.

31. I am not persuaded that it is arguable that the FTT made an error of law by considering and making findings in relation to the knowledge or awareness of the various advisers, or that this meant that the FTT had not considered whether HMRC had satisfied the requirement to give written notice of the PLNs to Mr Rodrigues. The FTT found that the PLNs had been sent to Mr Rodrigues' home address. The FTT rejected arguments that he had not been living there at the time, and separately referred to the tracked delivery note and the note of the call with Turpin which recorded that Mr Rodrigues had received the PLNs.

32. Having reached these conclusions, I am not persuaded that it is arguable that the FTT made an error of law by not going on to consider an alternative, hypothetical, scenario, that would only arise if Mr Rodrigues only became aware of the PLNs from Reliance in August 2020.

33. Ground 1 does not disclose an arguable error of law and permission to appeal is refused.

GROUND 2

34. Ground 2 is that the FTT erred in determining the third stage of the test in *Martland* because either it did not or did not adequately consider all relevant circumstances by failing to weigh the prejudice which Mr Rodrigues is likely to suffer if the appeal is not admitted.

35. At [20] of the Application (the only paragraph explaining Ground 2) Mr Iqbal's reasons in support of this ground were that while weighing prejudice to the parties the FTT gave unduly excessive weight to the factual findings addressed under Ground 1 and that the error alleged under Ground 1 crept into consideration of Stage 3 and infected it.

36. At the hearing Mr Iqbal submitted that the irrelevant considerations (with the FTT having spent considerable time on matters that were not relevant for assessing the delay or reasons for delay) then crept into its consideration of Stage 3. Mr Iqbal accepted that the procedural history showed a casual attitude to the appeal, but submitted that the FTT had not placed sufficient weight on the amount of the PLNs (which would place Mr Rodrigues at serious risk or bankruptcy if the appeal is not admitted) and that prejudice to HMRC can be addressed by costs orders.

37. I have found that Ground 1 does not disclose an arguable error of law, and accordingly no such error can have crept into its consideration of Stage 3. That, however, addresses only part of the submissions made by Mr Iqbal.

38. The FTT considered Stage 3 of *Martland* at FTT[174] to [196]. In summary, its approach was:

> (1) The FTT stated the evaluation proceeds from the starting-point that it is important that litigation be conducted efficiently and at proportionate cost, and that time limits be respected; and identified that it must undertake a balancing exercise assessing the reasons for the delay and the prejudice which may be caused to both parties by granting or refusing permission.
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> (2) The FTT referred to its rejection of Mr Rodrigues' evidence that he had not known of the PLNs, rejecting the argument that if he had known he would have reacted, rejecting the evidence that he was living elsewhere, stating that the oral evidence was not credible, was vague and lacking in detail, that he had apparently received a different letter from HMRC addressed to what HMRC say was his home address, and his suggestion he had been deceived by Turpin.
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> (3) The FTT explained its assessment of Officer Moore's evidence.

(4) The FTT identified at FTT[184] that one factor it must consider is the strength or weakness of the challenge to the PLNs, stating that "on the face of it", HMRC appeared to have grounds to issue the penalties to the Company and the resulting PLNs to Mr Rodrigues; and that the subsequent terms of the disclosure did not suggest that HMRC's arguments on penalties would be particularly weak. The FTT recognised that Mr Rodrigues was saying he intended to sue Turpin; and that if he were to appeal the PLNs he would put forward the same arguments as he had before the FTT about his advisers. The FTT found his case "does not appear to be strong".

(5) The FTT said "of course" Mr Rodrigues would be prejudiced if he was refused permission; he would be liable to pay a substantial sum of money. That was a consequence of failing to notify the appeals in time – but it cannot be right that "a delay which is significant and for which there was no good reason should be overlooked", simply because the amount at stake was very large.

(6) If the appeal proceeded, HMRC would be required to divert resources, time and costs for a matter that had been considered to be final a long time ago.

39. Mr Iqbal's submissions on Ground 2 are essentially a challenge to the evaluative judgment of the FTT in relation to the conduct of the balancing exercise and its evaluation of all the circumstances. An appellate court or tribunal should be slow to interfere with such a judgment; and here I am not persuaded that there is any reason for me to do so. The FTT identified the relevant factors and took them into account in reaching its decision.

40. Ground 2 does not disclose an arguable error of law and permission to appeal is refused.

DECISION

41. Permission to appeal is REFUSED.

Signed: **Jeanette Zaman**
Issued to the parties on: