UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER

Neutral Citation Number: [2026] UKUT 00246 (TCC)

Applicant: Najat Hamasala	**Tribunal Ref: UT-2026-000028**
Respondents: The Commissioners for His Majesty's Revenue and Customs	

APPLICATION FOR PERMISSION TO APPEAL

DECISION NOTICE FOLLOWING HEARING ON 16 JUNE 2026

JUDGE JEANETTE ZAMAN

1. The applicant, Najat Hamasala, applied to the Upper Tribunal (Tax and Chancery Chamber) for permission to appeal against the decision (the "FTT Decision") of the First-tier Tribunal (Tax Chamber) ("FTT") released on 23 October 2025 (TC/2024/04190).

2. The FTT Decision related to an application by Mr Hamasala for permission to make late appeals to the FTT against a closure notice and discovery assessments, and for permission to notify his appeals against late filing penalties to HMRC out of time. I refer to these together as "the late appeals". The FTT refused permission for Mr Hamasala to make the late appeals. References below in the form FTT[x] are to paragraphs of the FTT Decision.

3. The FTT refused permission to appeal against the FTT Decision in a decision released on 30 January 2026 (the "FTT PTA Refusal"). On 10 February 2026 Mr Hamasala applied to the Upper Tribunal for permission to appeal (the "Application") and I refused to grant permission on the papers (the "UT Papers Refusal"). Mr Hamasala applied for that decision to be re-considered at a hearing. The hearing was held at the Rolls Building on 16 June 2026 and was attended by Mr Hamasala. HMRC had been notified of the hearing and did not attend.

4. As explained below, I have REFUSED permission to appeal.

RELEVANT LAW ON GRANTING PERMISSION

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.

6. 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

7. In addition to the Application, Mr Hamasala has provided a separate letter, received by the Upper Tribunal on 12 February 2026, and a further letter and attachments on 26 March 2026. I confirmed in the UT Papers Refusal that I had decided to admit all of these documents for the purpose of considering the Application.

GROUNDS OF APPEAL

8. Taking the Application and the additional documents together, Mr Hamasala has made the following arguments in support of his application for permission to appeal:

(1) The way HMRC have made the calculations is unfair. There were only three days of observations at the car wash at the busiest time of the year. The level of trade was not the same at the start of the business four years ago. The price was £5 to £6 per car, not the £7 used by HMRC. HMRC have said two staff were working, and it is impossible for two staff to wash 50 cars per day. HMRC have assumed that the car wash was open seven days a week, whereas it would typically not open when it was raining, and would sometimes be closed for all or part of the day on Fridays and Sundays.

(2) His accountant was dealing with his appeal, and the accountant said everything was in hand and misled him. It is not fair for him and his family to pay the price for his accountant's mistakes.

(3) His full business and household budget shows that on the basis of the information provided as to monthly income and outgoings, there is no net income available to pay creditors

(4) English is not his first language.

9. At the hearing Mr Hamasala explained further:

(1) His accountant had a medical condition and had required hospital treatment around the time that HMRC was making their enquiries. This could be seen from, eg, a letter from his accountant to HMRC in October 2017.

(2) After HMRC had rejected his appeal in September 2019, he had continued to write to HMRC about the assessments and penalties. He had sent lots of letters, some by special delivery, but HMRC generally did not reply, even when he rang and spoke to relevant caseworker at HMRC. He had explained this at the hearing before the FTT.

10. Mr Hamasala's arguments relate both to:

(1) the calculation of the underlying assessments and penalties – the limited number of days of HMRC's observations, it being the busiest time of the year, the assumption made by HMRC as to how many cars can be washed in a day, the hours of operation of the business and pricing; and

(2) reasons for delay and whether to permit late appeals – the mistakes being those of his accountant who had required medical treatment, English not being Mr Hamasala' first language, he had continued to write to HMRC rather than make an appeal to the FTT and the unfairness/prejudice to him and his family. Mr Hamasala's arguments in relation to the underlying calculations may also be relevant for this purpose.

11. The only issue before the FTT was whether to grant permission to Mr Hamasala to make the late appeals. I have treated Mr Hamasala's application for permission to appeal as being on the ground that the FTT made an error of law in refusing to exercise its discretion to permit the late appeals to be made, and within this have considered the test applied by the FTT and the specific reasons relied upon by Mr Hamasala.

APPROACH TO BE TAKEN TO DECIDING WHETHER TO GIVE PERMISSION FOR LATE APPEALS

12. Before addressing the submissions made by Mr Hamasala, I first consider the approach taken by the FTT in considering whether to give permission for late appeals.

13. The FTT identified that guidance on the approach to be adopted had been given by the Upper Tribunal in *Martland v HMRC* [2018] UKUT 178 (TCC) ("*Martland*") (FTT[13]). That approach includes that the balancing exercise should take into account the particular importance of the need for litigation to be conducted efficiently and at proportionate cost, and for statutory time limits to be respected. The FTT also identified that in a subsequent decision, *Medpro Healthcare Ltd v HMRC* [2025] UKUT 255 (TCC) ("*Medpro UT*"), the Upper Tribunal decided that no extra weight should be given to this factor.

14. At FTT[14] the FTT said it had adopted the approach as in *Martland*. Given the context of FTT[14] and its reference to the alternative approach in FTT[29], I consider that was a clerical error and should have referred to *Medpro UT*.

15. Conducting the balancing exercise, the FTT concluded that Mr Hamasala should not be granted permission. The FTT then added at FTT[29] that they would have come to the same conclusion if they had given the need to comply with time limits, etc, greater significance.

16. Since the date of the FTT Decision, the Court of Appeal has released its decision in *HMRC v Medpro Healthcare Ltd* [2016] EWCA Civ 14 ("*Medpro CA*"), allowing HMRC's appeal and concluding that the *Martland* guidance (as amplified by *Katib*) is appropriate. The Supreme Court has also refused Medpro's application for permission to appeal. The decision in *Medpro CA* is therefore final. That is the approach to be followed when considering whether to grant permission to make late appeals, and by reference to which I have considered whether the FTT Decision involved the making of an error of law.

THE FTT DECISION

17. The FTT Decision is quite short, reflecting the approach encouraged by the Practice Direction issued on 4 June 2024 by the Senior President of Tribunals. The FTT has confirmed (at FTT[23]) that it took into account everything that Mr Hamasala told the FTT.

18. In the FTT Decision:

(1) The FTT made findings as to the correspondence sent by HMRC to Mr Hamasala and/or his accountant, referring to the time limits for appeal that were set out in those letters.

(2) The FTT decided that the appeals against the closure notice and assessments were more than six years late. The appeals against the penalties were more than five years late (with the appeal against the earliest penalty being nine years late).

(3) The FTT did not accept that Mr Hamasala was unaware of the existence of the FTT, and Mr Hamasala had confirmed that he was aware of HMRC's letters even though he was not in the UK for a period of time.

(4) The FTT considered that Mr Hamasala's reliance on his accountant falls within the general rule that failures by an adviser should generally be treated as failures by the litigant.

(5) The FTT set out its conclusion that, having considered all of the circumstances (including everything Mr Hamasala told the FTT), and taking into account the parties' submissions, Mr Hamasala should not be granted permission "given the significant and serious delay".

CONSIDERATION OF WHETHER TO GRANT PERMISSION TO APPEAL

19. I have considered the arguments made by Mr Hamasala to assess whether it is arguable that the FTT made an error of law in making its decision to refuse permission for the late appeals.

20. I address below the matters relied upon by Mr Hamasala.

Challenges to HMRC's calculations

21. Some of Mr Hamasala's challenges to the calculations (in particular in relation to the number of cars and the prices) were set out in his accountant's letter to HMRC in October 2017 and they were referred to in Mr Hamasala's emails to the FTT (eg an email dated 16 July 2024).

22. The FTT Decision does not include any express consideration of Mr Hamasala's submissions that relate to what he says is the inaccuracy of the assessments. The FTT Decision does confirm at FTT[23] that the FTT took account of everything it was told by Mr Hamasala, and this was reiterated at [5] of the FTT PTA Decision.

23. The FTT can have regard to any obvious strengths or weaknesses of the applicant's case when conducting the balancing exercise and evaluating all the circumstances; this goes to the question of potential prejudice to a taxpayer who is seeking to make a late appeal. I am not persuaded that Mr Hamasala's case is obviously strong such that it should expressly have been taken into account by the FTT.

Reliance on his accountant

24. The FTT addressed this at FTT[26] and [27], following the general rule in *Katib* (a decision which is binding on the FTT) that "failures by a litigant's adviser should generally be treated as failures by the litigant".

25. Furthermore, Mr Hamasala explained at the hearing that he became aware from HMRC in 2019 that in-time appeals had not been made by his accountant. He was shown at that time that one email had been sent by his accountant to an incorrect HMRC email address.

Communications with HMRC

26. I asked Mr Hamasala about his actions from 2019 onwards, as the FTT had found that:

(1) Mr Hamasala had appealed against the closure notice and discovery assessments on 21 June 2017 (FTT[6]), with HMRC issuing their view of the matter letter on 17 August 2017;

(2) HMRC wrote to Mr Hamasala's accountant on 1 May 2019 in response to a letter requesting the late appeal against the penalties be accepted, refusing as it was too late and stating that he could ask the tribunal to review the decision(FTT[8]) and

(3) Mr Hamasala appealed to the FTT against the closure notice, assessments and penalties on 2 June 2024 (FTT[9]).

27. Mr Hamasala explained he was sending letters to HMRC during this time, ie between 2019 and 2024 and that he had explained this to the FTT. One difficulty faced by Mr Hamasala is that the letters he produced to me (which I admitted) were a letter from his accountant dated 13 November 2019 to HMRC asking HMRC to admit the late appeal; and then emails sent in June and July 2024.

28. As recorded by the FTT in the FTT Decision, the letter from HMRC of 1 May 2019 sets out that Mr Hamasala could ask an independent tribunal to consider the appeal, stating the deadline was 31 May 2019 (FTT[8], which states 31 May 2020 but I infer that was a typo).

29. Furthermore, Mr Hamasala's evidence as to his communications with HMRC and his knowledge of the tribunal were before the FTT and were taken into account by the FTT in making its decision.

Financial position of Mr Hamasala

30. It has repeatedly been emphasised in decisions of the FTT and the Upper Tribunal that the serious financial consequences of losing the case are a common feature which could be propounded by large numbers of taxpayers; they do not necessarily outweigh other factors.

31. The FTT confirmed at FTT[23] that it took everything Mr Hamasala told the FTT into account, and repeated this in the FTT PTA Decision (at [6]), referring expressly to the financial consequences for Mr Hamasala.

English not being his first language

32. Mr Hamasala attended the hearing before the FTT and represented himself. The FTT had the opportunity to assess Mr Hamasala's knowledge and understanding of the letters he was sent by HMRC.

33. The Decision records at FTT[24] that the FTT did not accept he was unaware of the FTT, as the letters sent to him and/or his accountant in August 2017 and May 2019 clearly refer to an appeal to the FTT; and at FTT[25] that he confirmed he was aware of HMRC's letters.

Conclusion

34. The question of whether to grant permission to make late appeals is an evaluative decision to be made by the FTT. The FTT heard from Mr Hamasala and had before it the relevant documents. The FTT applied the legal test set out by *Medpro UT*, which is more favourable to taxpayers seeking to make a late appeal than the decision in *Medpro CA*, but in any event confirmed that the answer would be the same following either approach.

35. In this situation, an appellate court or tribunal should be reluctant to try to substitute its decision for that of the tribunal which heard the appeal.

36. The FTT found that the appeal to the FTT against the closure notice and assessments was six years and nine months late, and the appeals against the penalties were more than five years late. The FTT did not accept that Mr Hamasala was unaware of the FTT, and found that Mr Hamasala was aware of HMRC's letters.

37. The FTT took account of all of the arguments made by Mr Hamasala. Mr Hamasala is essentially arguing that the FTT should have placed more weight on certain factors, such that they outweighed the findings in relation to the length of the delay and the reasons for delay. However, the conduct and outcome of the balancing exercise is a matter for the FTT. I am not persuaded that it is arguable that the FTT made an error of law when making its decision to refuse permission for Mr Hamasala to make the late appeals. Permission to appeal is accordingly refused.

38. I recognise that Mr Hamasala will be very disappointed with this outcome.

39. It is important to emphasise that, even if I had decided to grant permission to appeal, this would not necessarily have meant that Mr Hamasala would be granted permission to make the late appeals, or that any late appeals would have been successful. Furthermore, whereas in the FTT proceedings the parties will have borne their own legal costs, in the Upper Tribunal parties can apply for costs orders against the opposing party. Subject to the tribunal's discretion, the usual order made is that the party who loses the appeal should bear the legal costs of the party who won the appeal. In other words, if he were granted permission to appeal and lost the substantive appeal, Mr Hamasala might have been made liable for HMRC's legal costs.

DECISION

40. Permission to appeal is REFUSED.

Signed: **Jeanette Zaman**
Issued to the parties on: 2nd July 2026