UPPER TRIBUNAL
(TAX AND CHANCERY CHAMBER)

Neutral Citation Number: [2026] UKUT 00297 (TCC)

Applicant: Michael Stefan Duma	**Tribunal Ref: UT/2026/000031**
Respondents: The Commissioners for His Majesty's Revenue and Customs	

RECONSIDERATION OF APPLICATION FOR PERMISSION TO APPEAL FOLLOWING ORAL HEARING

DECISION NOTICE

JUDGE THOMAS SCOTT

1. The Applicant applies to the Upper Tribunal (Tax and Chancery) for permission to appeal against the decision of the First-tier Tribunal (Tax Chamber) (the "FTT") in *(1) Intech Ventures Limited (In Liquidation) (2) Michael Stefan Duma v HMRC* released on 26 November 2025 (the "Decision").

2. The Applicant applied to the FTT for permission to appeal but the FTT refused permission, in a decision dated 19 February 2026 (the "FTT PTA Decision"). In a decision on the papers issued on 31 March 2026 I also refused permission.

3. This is the decision following the Applicant's request for an oral hearing to reconsider my decision. The hearing was held remotely on 20 July 2026 and was attended by both parties. The Applicant was represented by Andrew Young of Counsel and HMRC by Joshua Carey of Counsel.

When does an appeal lie?

4. An appeal to this Tribunal from a decision of the FTT can only be made on a point of law: section 11 of the Tribunals, Courts and Enforcement Act 2007. The Applicant 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 which carries a realistic as opposed to fanciful prospect of success.

The FTT's decision

5. HMRC issued to Intech and Mr Duma Notices of Requirement ("NORs") to give security for PAYE and NICs. They appealed to the FTT against the notices. The Decision was a preliminary hearing, directed by the FTT, to determine three issues:

> (1) whether the appeal was brought in time by either or both of the Appellants; and, if not,
>
> (2) whether the Tribunal should admit any such appeal notwithstanding its lateness; and, in either case,
>
> (3) what directions (if any) should be given in order to progress the substantive appeal to a hearing.

6. Intech was wound up and did not participate in the hearing. The FTT determined that (1) the appeal by Mr Duma had not been brought in time, (2) it should not be admitted late, and (3) accordingly, no further directions were required.

Grounds of appeal

7. My written refusal of PTA related to various grounds of appeal put forward by Mr Young in March 2026 which, Mr Young confirmed in the hearing, were no longer pursued. Therefore, my refusal of permission for those grounds stands.

8. At 5pm on the working day before the oral renewal hearing, Mr Young filed a skeleton argument for the oral renewal which contained arguments not previously raised before the Upper Tribunal.

9. The skeleton argument did not present grounds of appeal with supporting arguments, but a series of submissions in the form of short paragraphs.

10. I began the hearing by seeking clarification from Mr Young as to the grounds for which permission was now sought. He explained that they are as follows:

> (1) The FTT hearing was procedurally unfair. This was the Applicant's main argument.
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> (2) The FTT erred in accepting the certificate of service from the HMRC officer relating to the NOR received by Mr Duma.
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> (3) The FTT erred by failing to distinguish between the NOR received by the Company and the NOR received by Mr Duma.
>
> (4) The FTT erred in not deciding that the NOR was void because it included past debts.

11. Although not described as such in the skeleton argument, I will refer to these as Grounds 1 to 4.

Ground 1 : Procedural unfairness

12. Mr Young said that Mr Duma seeks a rehearing of the appeal on the basis that it was procedurally unfair, and he did not receive a fair trial.

13. Mr Young made the following points: there was clearly an "inequality of arms" since Mr Duma was a litigant in person and HMRC had been represented by Mr Carey; the hearing was held remotely; Mr Duma was not told he could cross-examine the HMRC witnesses; Mr Duma was not told that he had a right to give evidence; Mr Duma had been unfairly cross-examined by Mr Carey, and there had been no judicial intervention to control this; the judge had not understood that Mr Duma thought the proceedings were unfair; Mr Duma had been charged with a criminal offence, and Mr Duma had not been told that he could apply for Legal Aid.

14. Some of these objections are not made out:

> (1) The fact that Mr Duma may have been charged with a criminal offence was a consequence of his non-payment of the NOR, and not the preliminary hearing of the three issues which were before the FTT in this case.
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> (2) Legal Aid would not been available given the nature of the issues in the preliminary hearing. Broadly, Legal Aid is only available where a case involves a "criminal charge" for the purposes of Article 6 of the EHCR (*Hackett v HMRC* [2020] UKUT 212).
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> (3) Mr Carey told me that, having checked the position with his colleagues, he did not cross-examine Mr Duma, and I accept that evidence.
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> (4) The fact that a hearing is held remotely does not found a claim of procedural unfairness or of an unfair hearing: as long as the parties are given an adequate opportunity to make their points in the hearing, it is not of itself relevant whether the hearing is remote or in person.

15. In the FTT PTA Decision, the FTT responded to Mr Duma's complaint that he did not have a fair hearing and could not cross-examine HMRC's witnesses as follows:

> …as is often the case, the hearing was, with [the] agreement [of the parties], dealt with on the basis of submissions from the parties with reference to the documentary evidence available without any oral evidence. Mr Duma with the assistance of a McKenzie Friend represented the Appellants with the Respondents represented by Joshua Carey of Counsel. As noted , at paragraph 8 of the Decision, all submissions (even if not subsequently mentioned) were considered.

16. So, the parties had agreed the form which the hearing would take. As part of its case management powers, the FTT may decide whether a hearing will, for instance, be determined solely on the papers, or in a full hearing with witness evidence, or, as here, in a format falling between those positions, by a "turn up and talk" hearing in which there will be no further witness evidence, but only written and oral submissions.

17. The allegation of procedural fairness which is raised could be raised following any hearing which the parties have agreed will be heard in that format. Similarly, the allegation of an "inequality of arms" could be raised by any litigant in person in the FTT.

18. I am not persuaded that in this case there were factors which would take the case outside the norm so as to found a basis for arguing with a realistic prospect of success that there was material procedural unfairness, such that a re-hearing must be directed.

19. An assessment of the fairness of a hearing is a cumulative exercise, looking at its overall fairness: in *Hima v Secretary of State for the Home Department* [2024] EWCA Civ 680, which concerned the fairness of a FTT hearing, the Court of Appeal said (at [53]) that "what has to be considered is the overall fairness of the hearing".

20. In this case, I do not consider that when the Decision is looked at in its entirety, it can be argued that this was a procedurally unfair hearing. The limitations of the hearing in relation to the participation of witnesses and the fact that it was not in person were simply consequences of the format to which the parties had agreed. While Mr Duma was a litigant in person, the tribunal heard submissions from both Mr Duma and his McKenzie Friend, both orally and in writing. It is apparent from several passages that the FTT was taking a more inquisitorial approach in gathering information from Mr Duma which was relevant to the three issues which had to be determined: see, for example, [23], [32] and [56]. The tribunal permitted Mr Duma and his McKenzie Friend to provide their speaking notes after the hearing, which the FTT said that it had carefully considered: [8].

21. I have concluded that overall it is not arguable with a realistic prospect of success that the hearing was procedurally unfair, and I refuse permission for this ground.

Ground 2

22. The FTT found that the "certificate of service" from the HMRC officer who served the NOR on Mr Dumas at his home address was dated the day before the NOR was served. The officer stated in her witness statement that she had followed HMRC's standard procedure for issuing documents by post: [16]. The FTT referred to that evidence in reaching its finding that it was more likely than not that the NOR was "given" to Mr Dumas: [32].

23. Ground 2 asserts that the officer's evidence was inconsistent with the evidence in another case (*Duma v HMRC* [2026] UKFTT 262). I have carefully considered what is recorded in that case and this point is unarguable.

24. I refuse permission for this ground.

Ground 3

25. Each of the Company and Mr Duma received an NOR. It is asserted that the FTT erred by misdirecting itself that there was only one NOR. This is said to be shown by the statement at [17] that "Mr Duma wrote to HMRC requesting that the NOR be withdrawn".

26. This point is entirely without merit. It is clear from the Decision read in its entirety that the FTT was well aware that there were two NORs.

27. I refuse permission for this ground.

Ground 4

28. It is asserted that the NOR against Mr Duma was "void ab initio" because the company is insolvent and HMRC have impermissibly included past debts in their calculation for future security.

29. To the extent that this argument has any merit, it would potentially have been relevant to the FTT's assessment of the strength of Mr Duma's case at the third stage of the *Martland* process. However, there is no indication whatsoever in the Decision that this argument was raised or even alluded to, and the issue was not put to the FTT when applying for permission. I asked Mr Young whether to his knowledge the point had been raised, and he thought that, although it has been raised in parallel litigation, it was not raised before the FTT.

30. I have concluded that this would be a new point, not raised before the FTT, for which permission should not be granted. To do so would be procedurally unfair, and would relate to a failure by the FTT to take a point which was not raised before it.

31. I refuse permission for this ground.

Decision

32. The Applicant has not succeeded in identifying any arguable error of law in the Decision. Following reconsideration, permission to appeal is refused.

Signed: **Judge Thomas Scott**	**Date: 5 August 2026**
Issued to the parties on: 5 August 2026	