UPPER TRIBUNAL
(TAX AND CHANCERY CHAMBER)

Neutral Citation number: [2026] UKUT 00343 (TCC)

Applicant: Shane Matin	**Tribunal Ref: UT 2026-000040**
Respondents: The Commissioners for His Majesty's Revenue and Customs	

RECONSIDERATION OF APPLICATION FOR PERMISSION TO APPEAL

DECISION NOTICE

JUDGE VIMAL TILAKAPALA

1. Shane Matin (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") released on 04 March 2026 (the "FTT Decision").

2. The Applicant applied to the FTT for permission to appeal and in a decision notice released on 9 April 2026 the FTT refused permission on all grounds.

3. The Applicant renewed his application for permission to appeal. I refused that application on the papers in a decision released on 16 June 2026 (the "UT Papers Decision"). The Applicant has now applied for that decision to be reconsidered pursuant to Rule 22(4) of the Tribunal Procedure (Upper Tribunal) Rules 2008.

4. Ordinarily, a renewed application following refusal of permission on the papers would proceed by way of an oral hearing. In the present case, however, the Applicant requested that the renewed application be determined on the papers by reason of his continuing ill health.

5. The material submitted initially by the Applicant on its renewal application for permission to appeal consisted of multiple documents containing overlapping submissions and repeated arguments some of which lacked clarity. In order to ensure that reconsideration of his renewal

application could be considered fairly and efficiently, I directed the Applicant to provide a consolidated statement of grounds setting out the grounds of appeal it intended to rely on. The Applicant subsequently filed a document entitled *Consolidated Grounds of Appeal*, together with supporting material.

6. Having regard to the Applicant's request, the written material before me and the nature of the issues raised, I am satisfied that the application can be determined fairly and justly on the papers.

The FTT Decision

7. The FTT Decision dismissed an application by the Applicant seeking an order barring HMRC from taking any further part in proceedings concerning Personal Liability Notices ("PLNs") issued to him.

8. The underlying appeal to which the PLNs relate concerns corporation tax and construction industry scheme liabilities of APQ Developments Ltd a company of which the Applicant has been identified as sole company officer. The substantive appeal remains before the FTT.

9. The application before the FTT was made under Rule 8 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ("the FTT Rules"). Rule 8 contains powers enabling the Tribunal, in specified circumstances, to strike out proceedings or, in the case of a respondent, bar the respondent from taking further part in those proceedings.

10. The Applicant relied upon two provisions in Rule 8.

11. First, he relied upon Rule 8(3)(c), applied to respondents under Rule 8(7). That provision permits a respondent to be barred where it has no reasonable prospect of successfully defending the proceedings. The Applicant contended that HMRC had no realistic prospect of successfully defending the underlying appeal because HMRC's own review decision demonstrated that the PLNs were invalid.

12. Secondly, he relied upon Rule 8(3)(b), again applied under Rule 8(7). That provision permits a respondent to be barred where it has failed to cooperate with the FTT to such an extent that the FTT cannot deal with the proceedings fairly and justly. The Applicant contended that HMRC had engaged in procedural misconduct, delay and non-compliance with FTT directions such that a barring order should be made.

13. In considering Rule 8(3)(b), the FTT noted that the provision contains two distinct elements: a failure to cooperate with the tribunal and that failure being of such a degree that the tribunal can no longer deal with the proceedings fairly and justly (FTT [7]).

14. In considering Rule 8(3)(c), the FTT applied the principles summarised in *First de Sales Ltd v HMRC* [2018] UKUT 396 (TCC), including that the relevant question is whether the respondent has a realistic, as opposed to fanciful, prospect of successfully defending the proceedings (FTT [9]).

Jurisdiction and Applicable Principles

15. Under section 11 of the Tribunals, Courts and Enforcement Act 2007, an appeal from the FTT to the Upper Tribunal lies only on a point of law.

16. Permission to appeal will generally be granted where a proposed ground discloses an arguable error of law material to the outcome of the case or where there is some other compelling reason why an appeal should be heard.

17. The present application is a renewal application made pursuant to Rule 22(4) of the Tribunal Procedure (Upper Tribunal) Rules 2008.

18. The issue is not whether the Applicant continues to disagree with the FTT's conclusions. Nor is it whether the original application for permission should simply be reargued.

19. The question is whether the renewed grounds identify an arguable material error in the reasoning by which permission to appeal was refused.

Background

20. The procedural context is material to the renewed application.

21. On 22 April 2025 HMRC applied for further and better particulars of the Applicant's appeal, contending that the appeal materials did not sufficiently identify the decisions under challenge or the factual and legal basis upon which those decisions were being challenged. HMRC also sought an extension of time in which to serve its Statement of Case. The Applicant opposed that application.

22. On 13 August 2025 HMRC sought further time in which to respond to the Applicant's submissions. Later on the same day, the Applicant made an application (the "Barring Application") seeking to bar HMRC from further participation in the proceedings.

23. As described above, the Barring Application was advanced on two bases. The first was that HMRC had no realistic prospect of successfully defending and the second was that HMRC had engaged in procedural misconduct and delay.

24. The Barring Application gave rise to a direction made by Judge Brooks on 11 September 2025. In that direction, HMRC was required, by 25 September 2025, either to confirm that it objected to the Barring Application and provide reasons for that objection or to confirm that it did not object.

25. The Applicant's case throughout has been that HMRC failed to comply with that direction because, by the specified date, it neither expressly objected to the application nor expressly stated that it did not object. Instead, HMRC requested a copy of the Barring Application and additional time in which to respond.

26. The significance of that issue extends beyond the direction itself. A substantial proportion of the Applicant's subsequent arguments depend upon the proposition that HMRC thereby entered procedural default and that procedural consequences automatically followed.

27. The FTT rejected the Applicant’s contention as to HMRC default. It found that HMRC had not received the Barring Application itself, had requested a copy of it on 12 September 2025 and again on 25 September 2025, and had not received a copy until 14 October 2025. It further concluded that HMRC's requests for a copy of the application and additional time were reasonable responses to the direction and that there had been no default or failure of cooperation on HMRC's part.

28. On 12 December 2025 the FTT directed that the Barring Application should be listed for a case-management hearing.

29. Following that direction, the Applicant filed further written representations. Those representations referred, amongst other matters, to his health, his ability to participate in a hearing and his account of the procedural history of the proceedings.

30. In a decision dated 9 January 2026, the FTT treated those representations as an application to vary its earlier directions.

31. The FTT concluded that the interests of justice could be served by determining the Barring Application without a hearing and the application was subsequently determined on the papers in the FTT Decision issued on 4 March 2026.

32. The FTT also rejected the Rule 8(3)(c) application, concluding that it was premature to determine that HMRC had no realistic prospect of successfully defending the appeal. This was because HMRC had not at that time served a Statement of Case and only limited material concerning the underlying dispute was before the tribunal.

The Renewed Grounds

33. The renewed application contains five grounds of appeal. Although expressed in different ways, each ground alleges that the UT Papers Decision failed properly to engage with an alleged error of law said to arise from the FTT Decision. Those grounds are as follows:

Ground 1 “the Upper tribunal erred by treating HMRC’s correspondence dated 12 and 25 September as compliance with Judge Brooks’ direction of 11 September 2025”

34. This ground relates to Judge Brooks' direction of 11 September 2025. The Applicant contends that the UT Papers Decision erred in law by treating HMRC as having complied with that direction.

Ground 2 “failure to address jurisdiction; mischaracterisation as case management”

35. This Ground 2 concerns the legal consequences said to arise from that alleged non-compliance. The Applicant contends that the UT Papers Decision wrongly treated the issue as one of case-management discretion rather than jurisdiction and failed to identify the legal basis upon which HMRC was permitted to continue participating in the proceedings.

Ground 3 “Mischaracterisation of Ground 4 and failure to address the argument advanced”

36. Ground 3 concerns the FTT's decision of 9 January 2026 to determine the Barring Application on the papers and the relationship between that procedural decision and the reasoning contained in the FTT Decision.

Ground 4 "failure to address structural procedural unfairness (Rule 2 – equality of arms)

37. Ground 4 concerns Rule 2 of the FTT Rules, equality of arms, procedural fairness and Article 6 ECHR. The Applicant contends that the UT Papers Decision failed properly to address his submission that materially different procedural standards were applied to the parties.

Ground 5 "failure to engage with material evidence"

38. Ground 5 concerns adequacy of reasons and the treatment of evidence. The Applicant contends that the UT Papers Decision erred in concluding that the FTT gave legally sufficient reasons and properly rejected evidence on which he relied, including an internal HMRC review (the "SOLS Review"), correspondence between the Applicant and the HMRC Chief Executive's Office and later HMRC admissions.

Discussion

39. I address each ground in turn.

Ground 1

40. Under this ground the Applicant submits that Judge Brooks' direction imposed a mandatory binary obligation requiring HMRC either to object to the Barring Application or to indicate that it did not object. Because HMRC instead requested a copy of the Barring Application and additional time in which to respond, he contends that HMRC failed to comply with the direction.

41. The FTT did not accept that proposition. It found that HMRC had not received the Barring Application itself, had twice requested a copy of it and had not been placed in a position to provide a substantive response before receipt of the application.

42. The FTT therefore determined that there had been no procedural default and no failure of cooperation (FTT [51]).

43. In the UT Papers Decision, I concluded that the FTT was entitled to reach those findings on the evidence before it and that the challenge advanced amounted, in substance, to disagreement with those findings rather than identification of an arguable error of law.

44. Having reconsidered the matter in light of the renewed grounds, I remain unpersuaded that an arguable error of law has been identified in that analysis.

Ground 2

45. Ground 2 concerns the legal consequences which the Applicant says should have followed from HMRC's alleged non-compliance with Judge Brooks' direction.

46. The Applicant submits that once the deadline in the direction expired, procedural consequences should have automatically arisen and that HMRC's subsequent participation in the proceedings effectively amounted to relief from sanctions granted without a proper application or legal basis.

47. In support of that proposition he relies upon *BPP Holdings Ltd v HMRC* [2017] UKSC 55, *Denton v TH White Ltd* [2014] EWCA Civ 906, and *Martland v HMRC* [2018] UKUT 178 (TCC)

48. The proposition relied upon from *BPP Holdings* is that HMRC enjoys no privileged procedural status and must comply with tribunal directions in the same manner as any other litigant. That principle is uncontroversial. However, neither the FTT nor the UT Papers Decision proceeded on the basis that HMRC was exempt from compliance with tribunal directions. Rather, both proceeded on the basis that HMRC had not committed the procedural default alleged.

49. Both *Denton* and *Martland* concern the consequences of procedural default and the circumstances in which relief from sanctions may be granted after default has occurred d. These authorities assist the Applicant only if the premise of procedural default is established. The FTT rejected that premise.

50. In the UT Papers Decision, I concluded that no arguable error of law arose from the FTT's finding that there had been no default as that finding was clearly open to it on the facts before it.

51. I remain satisfied that the UT Papers Decision was entitled to reach that conclusion.

52. Ground 2 does not therefore disclose an arguable material error in the reasoning of the UT Papers Decision.

53. ***Ground 3***

54. Ground 3 concerns the FTT's decision of 9 January 2026 to determine the Barring Application on the papers and the relationship between that procedural decision and the reasoning contained in the FTT Decision.

55. The Applicant's complaint is not that he was entitled to an oral hearing or that the Barring Application could only lawfully be determined at a hearing. Nor does he allege actual bias.

56. Instead his case appears to be that the chronology and supporting material which he placed before the Tribunal must have informed its decision to hear the Barring Application on the papers. He submits that if that material was capable of influencing the FTT's decision as to the method of determination the FTT was required to explain what significance, if any, it attached to the same material when later determining the merits of the application.

57. The Applicant therefore contends that there is an inconsistency between the procedural reasoning reflected in the decision of 9 January 2026 and the reasoning contained in the FTT Decision. His complaint is not that the chronology necessarily required the Barring Application to succeed, but that the relationship between the two decisions was insufficiently explained.

58. The Applicant explains the point in the Consolidated Grounds in more developed terms than appeared in his earlier materials. He emphasises that his complaint is directed not to the absence of a hearing as such but to the significance of the chronology and to the relationship between the procedural and substantive decisions.

59. Having considered the ground in that form, I am not persuaded that it discloses an arguable error of law.

60. The decision of 9 January 2026 and the FTT Decision addressed different questions. The former concerned the management of proceedings and, in particular, whether a hearing remained necessary. The latter concerned the merits of the Barring Application, including whether the requirements of Rule 8(3)(b) or Rule 8(3)(c) were satisfied.

61. The Applicant's submission proceeds on the basis that, because the chronology and supporting material formed part of the background to the procedural decision, the FTT was required to explain what significance the same material carried in the substantive determination.

62. I do not consider that proposition to be arguable. Material may be relevant to a case-management decision without being determinative, or even materially significant, to the ultimate merits of an application. Nor does the fact that such material was considered in the context of case management require the FTT to provide a separate explanation expressly linking its procedural and substantive decisions.

63. The Applicant also relies upon *Porter v Magill* [2001] UKHL 67. He does not rely upon that authority as an allegation of actual or apparent bias. Rather, he invokes it in support of a broader submission concerning procedural fairness and consistency in judicial reasoning.

64. The principle established in that case is whether a fair-minded and informed observer, having considered the relevant facts, would conclude that there was a real possibility of bias.

65. The matters relied upon by the Applicant concern a procedural decision and a later substantive determination addressing different questions. Even accepting the Applicant's formulation of the point, those matters do not disclose an arguable basis for concluding that the principle in *Porter v Magill* is engaged or that the FTT's reasoning gives rise to an appearance of unfairness in the sense discussed in that authority.

66. In essence his submission is that the chronology and related material should have carried greater significance in the FTT's reasoning. That submission does not, in my judgment, disclose an arguable error of law.

67. Ground 3 therefore does not disclose an arguable material error in the reasoning of the UT Papers Decision.

Ground 4

68. Ground 4 is concerned with a different aspect of the Applicant's challenge. Whereas Ground 3 focuses upon the significance of the FTT's procedural decision of 9 January 2026

and the relationship between that decision and the FTT Decision, Ground 4 concerns the broader fairness of the proceedings and the procedural treatment afforded to the parties.

69. As with Grounds 1 and 2, a substantial part of the argument depends upon the proposition that HMRC failed to comply with Judge Brooks' direction of 11 September 2025 and was thereafter permitted to continue participating in the proceedings despite procedural default.

70. It is therefore necessary to consider whether the renewed grounds identify an arguable basis for concluding that the UT Papers Decision erred in its treatment of those fairness arguments.

71. The Applicant submits that materially different procedural standards were applied to the parties. He contends that procedural requirements were enforced strictly against him whereas HMRC was permitted to continue participating in the proceedings despite what he regards as its procedural default and substantial delay.

72. The Applicant relies upon Rule 2 of the FTT Rules, the principle of equality of arms and Article 6 ECHR in support of his submission that the proceedings were not conducted fairly.

73. Rule 2 requires the FTT to seek to give effect to the overriding objective of dealing with cases fairly and justly. The obligation is one of procedural fairness. It does not require identical treatment of parties irrespective of circumstances. Rather, it requires that procedural decisions reflect the parties' actual procedural positions and the circumstances of the particular case.

74. Similarly, the principle of equality of arms is directed to ensuring that each party has a reasonable opportunity to present its case without substantial procedural disadvantage. It is concerned with practical fairness in the conduct of proceedings and not with the automatic imposition of identical procedural consequences irrespective of the facts.

75. The Applicant's reliance upon Article 6 ECHR proceeds on a similar basis. He submits that the cumulative effect of HMRC's alleged procedural failings and the Tribunal's treatment of those failings resulted in an imbalance between the parties such that the proceedings should be regarded as unfair overall.

76. The Applicant also relies again upon *BPP Holdings*. As discussed under Ground 2, the proposition derived from that authority is that HMRC enjoys no privileged procedural status and is required to comply with Tribunal directions in the same manner as any other litigant. He submits that if HMRC failed to comply with Judge Brooks' direction, the same procedural standards and consequences should have applied to HMRC as would have applied to any other party.

77. In the UT Papers Decision, I concluded that the Applicant's Rule 2, equality of arms and Article 6 arguments did not disclose an arguable error of law as they depended substantially upon the proposition that HMRC had entered procedural default and was nevertheless permitted to continue participating in the proceedings.

78. For the reasons discussed under Grounds 1 and 2, the FTT rejected that proposition and concluded that HMRC had not procedurally defaulted.

79. In the UT Papers Decision, I concluded that those findings were findings which the FTT was entitled to reach on the evidence before it and that no arguable error of law arose from them.

80. Once those findings are taken into account, the comparison upon which the Applicant's Rule 2, equality of arms and Article 6 arguments depends is materially weakened because the FTT's conclusion was that HMRC had not committed the procedural default alleged. The renewed grounds do not identify an arguable basis for concluding that the UT Papers Decision erred in reaching that conclusion.

81. Ground 4 therefore does not disclose an arguable material error in the reasoning of the UT Papers Decision.

82. **Ground 5**

83. Ground 5 concerns the treatment of evidence and the adequacy of the FTT's reasons.

84. The Applicant relies upon a body of documentary material which includes the SOLS Review, Chief Executive's Office correspondence and subsequent HMRC admissions. Its submission is that this material demonstrates a greater degree of understanding within HMRC of the appeal and the issues being advanced than was subsequently reflected in HMRC's procedural position before the Tribunal. He also contends that the material supports his wider submission that HMRC's substantive position concerning the PLNs was weak.

85. The Applicant argues that the significance of this material was not properly addressed either by the FTT or in the UT Papers Decision.

86. This ground has two aspects. The first is that the FTT's reasons were inadequate. The second is that FTT's conclusions concerning the evidence were not properly open to it.

Reasons

87. In support of this aspect of the ground, the Applicant relies upon *Flannery v Halifax Estate Agencies Ltd* [1999] EWCA Civ 811 and *English v Emery Reimbold & Strick Ltd* [2002] EWCA Civ 605.

88. Those authorities are concerned with the duty to give reasons. They recognise that reasons enable parties to understand why they have won or lost and permit effective appellate review. However, they also make clear that a tribunal is not required to address every submission, every item of documentary evidence or every point capable of being advanced in argument.

89. The relevant question is whether the tribunal identified the issues requiring determination and explained sufficiently why those issues were resolved in the manner they were. Reasons are to be read fairly and as a whole rather than subjected to an overly detailed textual analysis in search of omissions.

90. The Applicant's complaint is, in substance, that the FTT did not engage sufficiently with the documentary material upon which he relied and the conclusions which he invited the Tribunal to draw from it.

91. However, neither *Flannery* nor *English v Emery* requires a tribunal to discuss expressly every document relied upon by a party or to provide a separate analysis of every evidential strand advanced in support of that party's case. The question is therefore whether the FTT sufficiently explained why the Barring Application failed on the issues which it was required to determine.

92. The FTT addressed the Rule 8(3)(c) application and the Rule 8(3)(b) application separately and explained why each failed. In relation to Rule 8(3)(c), it rejected the contention that HMRC had no realistic prospect of successfully defending the appeal (as HMRC had not yet submitted a statement of case) and rejected the submission that the documentary material established that the PLNs were necessarily invalid (having reviewed that material). In relation to Rule 8(3)(b), the FTT explained, by reference to the facts, the basis on which it rejected the allegation of procedural default and concluded that HMRC had not failed to cooperate with the Tribunal within the meaning of Rule 8.

93. In the UT Papers Decision, I concluded that those reasons met the standard explained in *Flannery* and *English v Emery*. The conclusion reached was not that the material relied upon by the Applicant lacked relevance. Rather, it was that the FTT had adequately explained why it rejected the conclusions which the Applicant sought to draw from that material.

94. Having considered the Consolidated Grounds, I remain satisfied that the Applicant has not identified an arguable inadequacy of reasons capable of engaging the principles discussed in *Flannery* or *English v Emery*.

Findings and Evaluation of Evidence

95. The second aspect of the ground concerns the conclusions which the FTT drew from the evidence and here the Applicant relies upon *Edwards v Bairstow* [1956] AC 14.

96. The principle established by *Edwards v Bairstow* is a limited one. Appellate intervention may be justified where findings are unsupported by the evidence, contrary to the evidence, involve a misunderstanding of the evidence, or are findings which no reasonable tribunal properly directing itself could have reached. The authority does not permit an appellate tribunal to substitute its own assessment of the evidence for that of the first-instance tribunal.

97. The Applicant places particular reliance upon the documentary material identified earlier in this ground. His case is that that material demonstrates a greater degree of understanding within HMRC of the appeal and the issues being advanced than was subsequently reflected in HMRC's procedural position before the Tribunal.

98. An appeal to the Upper Tribunal lies only on a point of law. The issue is therefore not whether the materials relied upon by the Applicant permit the inferences which he seeks to draw from them, nor whether a different tribunal might have attached greater significance to those materials. The question is whether the FTT's treatment of that material disclosed an arguable legal error.

99. The FTT was not required to determine as a free-standing issue whether HMRC possessed the degree of knowledge which the Applicant contends it has. It was instead required simply to determine the questions arising under Rules 8(3)(b) and 8(3)(c). The Applicant's submissions

concerning HMRC's knowledge formed part of the material before the FTT on those questions. However, the existence of that material did not, as a matter of law, require the FTT to reach the conclusions for which the Applicant contended.

100. The renewed grounds do not identify a finding of the FTT which was unsupported by evidence, contrary to the evidence, based upon a misunderstanding of the evidence or otherwise incapable of being reached by a reasonable tribunal properly directing itself. In substance, the criticism advanced is that the FTT attributed insufficient significance to the material relied upon by the Applicant and did not draw the inferences which he invited it to draw. That is a challenge to the evaluation of the evidence rather than the identification of an *Edwards v Bairstow* error.

101. In the UT Papers Decision, I concluded that the criticisms advanced did not disclose an arguable error of law, the renewed grounds do not alter that conclusion.

102. Ground 5 therefore does not disclose an arguable material error in the reasoning of the UT Papers Decision.

103. **Conclusion and Decision**

104. I have considered the renewed grounds individually and cumulatively, together with all of the supporting material relied upon by the Applicant.

105. Having reconsidered the issues in light of the Consolidated Grounds I remain satisfied that the conclusion reached in the UT Papers Decision was correct.

106. Considered individually and cumulatively, the grounds do not disclose a realistic prospect of establishing that the FTT erred in law. Nor do they disclose any other compelling reason why permission to appeal should be granted.

107. The renewed application for permission to appeal is refused.

Signed: **Vimal Tilakapala** **Judge of the Upper Tribunal**	**Date: 1 September 2026**
Issued to the parties on: 3 September 2026	