



**UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER**

**Neutral Citation Number:
[2026] UKUT 00404 (TCC)**

Appellants/Applicants: Keene Distribution Limited/Mohammed Naseemdost	Tribunal Ref: UT-2026-000108
Respondents: The Commissioners for His Majesty's Revenue and Customs	

APPLICATION FOR PERMISSION TO APPEAL

DECISION NOTICE

INTRODUCTION

1. The Applicants apply to the Upper Tribunal (Tax and Chancery Chamber) (the “**UT**”) for permission to appeal the case management decision (the “**Decision**”) of the First-tier Tribunal (Tax Chamber) (the “**FTT**”) contained in a letter (the “**Letter**”) written by the FTT administration on 29 September 2026, at the FTT judge’s direction, to the Applicants.
2. By the Decision the FTT refused the Applicants’ application (the “**FTT Application**”) to postpone the substantive hearing of their appeals in the FTT currently listed for 19-28 October 2026. The FTT Application was based on potential adverse findings that may arise from the FTT proceedings and the impact of any such findings on potential criminal proceedings against one of the Applicants (Mr Naseemdost).
3. On 7 October 2026, the Applicants requested the FTT to “reconsider its position on the postponement” and attached a letter from the solicitors instructed in Mr Naseemdost’s criminal investigations in support. The FTT treated that request as an application for permission to appeal the Decision.
4. By a decision dated 8 October 2026, the FTT refused (the “**Refusal**”) the Applicants permission to appeal the Decision.
5. The Applicants renewed their application (the “**UT Application**”) to the UT for permission to appeal in time on 11 October 2026.
6. The UT Application was considered as a matter of urgency, as the FTT had decided that the substantive hearing would start on Monday 19 October 2026 (as planned) unless the Applicants were granted permission to appeal by Friday 16 October.
7. By a decision notice dated 14 October 2026 and released on 15 October 2026 the UT dismissed the UT Application.

8. On 15 October 2026 the Applicants made an application to the UT under Rule 22(4) and (5) of the Upper Tribunal Rules for the UT Application to be reconsidered at an oral hearing.

9. That oral hearing took place by video on the afternoon of Friday 16 October 2026. The Applicants were represented by Mr Taher Nawaz of T Nawaz & Co Chartered Accountants, and HMRC by Ms Lauren Paris of the Office of the General Counsel and Solicitor to HMRC.

10. At the end of that oral hearing, I gave an ex tempore decision dismissing the UT Application and summarising my reasons for doing so, with fuller written reasons to follow. This decision notice sets out my reasons for dismissing the UT Application.

UT'S JURISDICTION IN RELATION TO APPEALS FROM THE FTT

11. An appeal to the UT 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 UT has a discretion whether to give permission to appeal. That discretion will be exercised to grant permission if there is a realistic (as opposed to fanciful) prospect of an appeal succeeding, or if there is, exceptionally, some other good reason to do so: Lord Woolf MR in *Smith v Cosworth Casting Processes Ltd* [1997] 1 WLR 1538.

12. It is therefore the practice of this Chamber of the UT to grant permission to appeal where the grounds of appeal disclose an arguable error of law in the FTT's decision which is material to the outcome of the case or if there is some other compelling reason to do so.

GROUND OF APPEAL

13. In its Application, the Applicants identified two grounds of appeal, as follows:

(1) Article 6 of the European Convention on Human Rights (the “**Convention**”) gives rights to a fair trial and, in criminal cases, those rights are enhanced under Article 6.3. The way the FTT proceedings are being conducted, before any criminal proceedings, is a clear denial of Convention rights and it is this which the Applicants rely on as a point of law which the FTT is ignoring by continuing with the FTT proceedings.

(2) In refusing permission to appeal the sole case quoted by the FTT is *Bittar & Others v FCA*, [2016] UKUT 265 (TCC) (“*Bittar*”). The Applicants feel that a number of points need to be borne in mind before considering this as valid authority for refusing to continue the stay. First, there were three appellants, Christian Bittar, who opposed the stay, Joerg Vogt, whose appeal had yet to be admitted, and Phillipe Moryoussef, who wanted the stay to remain as he did not want his resources to be stretched dealing with both the criminal and civil proceedings. The SFO (the prosecuting authority) did not seek a complete stay of proceedings so long as Mr Bittar's appeal was not heard before the conclusion of the criminal proceedings. The Applicants say (as the UT in *Bittar* acknowledged) that this was an unusual fact pattern. Also, the decision in *Bittar* did not apply to the actual hearing of the appeal but to the filing of a Statement of Case and List of Documents, whereas here an actual hearing is listed which will require Mr Naseem to give evidence and, from his perspective, an adverse decision in a civil trial could bankrupt him but a criminal trial, where the prosecution states the consequences to be potential maximum sentences of fourteen years in the HMRC case and life imprisonment in the other case, would mean that he faces catastrophic consequences. He would be forced to abrogate his right to give evidence and as such prejudice his right to a fair trial even in the civil proceedings. *Bittar* does not support the court/tribunal continuing with civil proceedings where an appellant is not happy with a civil trial before a criminal trial.

14. In addition to the Applicants' detailed grounds of appeal, Mr Nawaz raised an additional point which had not been raised previously. This related to the personal circumstances of Mr

Nawaz (who is representing the Applicants before the FTT) and his family and the impact those circumstances may have on Mr Nawaz's ability to represent the Applicants effectively before the FTT. He told me that, to address those circumstances, the hearing in the FTT would need to be put back to Eastertime 2027.

15. As this completely new point has nothing to do with the basis on which the FTT reached its Decision and is in effect a fresh application for a different stay on new grounds (not a new ground for appealing the Decision), I decided that it was not a matter I had jurisdiction to deal with and that, if the Applicants still consider this appropriate, a separate application for a stay on this ground should be made to the FTT.

16. As I am not dealing with this fresh application, it is neither necessary nor appropriate for me to set out the circumstances affecting Mr Nawaz and his family, but I should nevertheless make it clear that, at a personal level, both Ms Paris (despite her objection to this stay) and I have great sympathy for the predicament Mr Nawaz and his family find themselves in.

THE LAW

17. Rule 5 of the First-tier Tribunal (Tax Chamber) Rules 2009 (the “**Rules**”) provides, so far as relevant, as follows:

“(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

...

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may by direction—

...

(j) stay (or, in Scotland, sist) proceedings; ...”

18. Rule 1 of the Rules provides (so far as relevant):

“(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the Tribunal effectively; and

(e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.”

19. Article 6 of the Convention provides as follows:

“1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.”

20. Section 3 of the Human Rights Act 1998 (the “HRA”) provides:

“(1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.

(2) This section—

(a) applies to primary legislation and subordinate legislation whenever enacted;

(b) does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and

(c) does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility.”

THE UT’S APPROACH TO CHALLENGES TO FTT CASE MANAGEMENT DECISIONS

21. The Decision involved the FTT exercising its discretion to decide whether to stay the proceedings. In doing that it was required to act in accordance with the overriding objective and give effect, so far as relevant, to Mr Naseemdosht’s Convention rights.

22. As mentioned earlier, an appeal lies to the UT only where there is an alleged error of law. This could include the FTT misdirecting itself as to the law, considering irrelevant factors, ignoring relevant factors or reaching a “perverse” decision (one which the tribunal, properly applying the law to the facts it found, could not reasonably reach).

23. So far as appeals against evaluative case management decisions are concerned, the correct approach for the UT to take was summarised by the UT in *Ingenious Games LLP v HMRC*, [2015] UKUT 105 (TCC) at [52], as follows:

“Where, as in the present case, the appeal is from a case-management decision, the proper approach for the Upper Tribunal to adopt was

conveniently stated by Sales J in [*HMRC v Ingenious Games LLP and Others* [2014] UKUT 62 (TCC)] at [56], in terms with which I respectfully agree:

“The Upper Tribunal should not interfere with case management decisions of the FTT when it has applied the correct principles and has taken into account matters which should be taken into account and left out of account matters which are irrelevant, unless the Upper Tribunal is satisfied that the decision is so plainly wrong that it must be regarded as outside the generous ambit of discretion entrusted to the FTT: *Fattal v Walbrook Trustees (Jersey) Ltd* [2008] EWCA Civ 427 at [33], [2008] All ER (D) 109 (May) at [33]; *Revenue and Customs Comrs v Atlantic Electronics Ltd* [2013] EWCA Civ 651 at [18], [2013] STC 1632 at [18]. The Upper Tribunal should exercise extreme caution before allowing appeals from the FTT on case management decisions: *Goldman Sachs International v Revenue and Customs Comrs* ... [2009] UKUT 290 (TCC) at [23] – [24], [2010] STC 763 at [23] – [24].”

THE CORRECT APPROACH TO A STAY APPLICATION

24. I agree with HMRC’s submission that there is no automatic entitlement to a stay or postponement merely because criminal proceedings are pending, still less because there is only an investigation and no charge, rather the question is discretionary and requires the balancing of justice between the parties. A relevant consideration is whether there is a real, rather than merely notional, danger of injustice in the criminal proceedings.

25. I set out below a summary of the relevant principles to be applied given by Gloster J in *Akcine Bendrove Bankas Soras (in bankruptcy) v Antonov and Baranauskas*, [2013] EWHC 131 (comm) (“*Akcine*”), where the issue was whether an English civil action brought against a former bank owner should be stayed pending the outcome of parallel Lithuanian criminal investigations and extradition proceedings. There are lots of authorities in this area, but I have chosen to cite this authority because it is a regularly cited authority which post-dates the coming into force of HRA. Gloster J observed:

“[18] There was very little difference between [counsel in that case] as to the relevant principles applicable to the grant of a stay of civil proceedings. For present purposes they may be summarised as follows:

i) The court has a discretion to stay civil proceedings until related criminal proceedings have been determined, but it “is a power which has to be exercised with great care and only where there is a real risk of serious prejudice which may lead to injustice”; see *R v Panel on Takeovers and Mergers, ex p Fayed* [1992] BCC 524, per Neill LJ at p.531E-F; cited with approval in *A-G of Zambia v Meer Care & Desai & Ors* [2006] EWCA Civ 390.

ii) The discretion has to be exercised by reference to the competing considerations between the parties; the court has to balance justice as between the two parties; a claimant has a right to have its civil claim decided; the burden lies on a defendant to show why that right should be delayed; see *Panton v Financial Institutions Services Limited* [2003] UKPC 8 (PC) at [11].

iii) A defendant must point to a real, and not merely notional, risk of injustice. As the Privy Council stated in *Panton (supra)*:

“A stay would not be granted simply to serve the tactical advantages that the defendants might want to retain in criminal proceedings. The accused’s right to silence in criminal proceedings was a factor to be considered, but that right did not extend to give a defendant as a matter

of right the same protection in contemporaneous civil proceedings. What had to be shown was the causing of unjust prejudice by the continuance of the civil proceedings”.

iv) The fact that a defendant has a right to remain silent in criminal proceedings, and would, by serving a defence in civil proceedings, be giving advance notice of his defence, carries little weight in the context of an application for a stay of civil proceedings. There is no right to invoke the privilege against self-incrimination in relation to putting in a defence, as compared with the right in civil proceedings to invoke the privilege where a defendant is being interrogated, being compelled to produce documents or cross-examined; see per Waller LJ in *V v C* [2002] C.P. Rep. 8, at paragraphs 37 and 38. In a civil trial there is no immunity against adverse comment or adverse inference from a failure to provide answers for the trial or to give evidence at the trial; a defendant does not have to put in a defence or give evidence at a civil trial but, if he does not, the court can draw an inference because in a civil trial it is not his “right” not to do so; that is important in the summary judgment context, because, if the claimant can establish his claim (for example on a summary judgment application) without interrogatories or disclosure, then a privilege against self-incrimination is not in fact relevant; see *ibid* at paragraph 37.

v) Moreover, today, even in criminal proceedings, at least in England and Wales, a defendant is expected to adumbrate a positive defence at an early stage. Thus the disclosure of a defence in civil proceedings is unlikely to disadvantage a defendant in criminal proceedings; see *ibid* at paragraph 38.

vi) It is also legitimate, when balancing the competing considerations between the parties, to take into account that a positive defence is likely to exculpate, rather than incriminate, a defendant; as Waller LJ said at *ibid* paragraph 39:

“Third, it is legitimate to start from the position that a positive defence is likely to exculpate rather than incriminate. It is legitimate to expect an explanation on oath as to the nature of the defence that the defendant has so that a court can see (a) whether there is a reason for a trial on the merits; and (b) whether the way in which having to fight the summary judgment application or the trial may impinge on the fair trial of the defendant in a criminal court. In this context, if it is obvious that a full trial must proceed and that an order for production of documents, for example, is going to be met [by] a claim of privilege against self-incrimination, postponement of the civil trial may be appropriate. But if a claimant can establish his case without compelling information or evidence from a defendant, the only relevant impact on the criminal trial to be considered is what the effect of entering a summary judgment will be. The onus is on the defendant at all stages to demonstrate that the civil process should not proceed, and the stronger the case against the defendant in the civil context the higher the onus on the defendant should be.”

vii) It is not enough, as Briggs J observed in *FSA v Anderson* [2010] EWHC 308 (Ch) at [19], that both the civil and criminal proceedings arise from the same facts, or that the defence of the civil proceedings may involve the defendant taking procedural steps such as exchanging witness statements and providing disclosure of documents which might not be imposed upon them in the criminal proceedings.

viii) As Mr. Zacaroli submitted, a defendant thus has a choice between remaining silent in the civil proceedings or risk giving an indication of his defence which may be used by the prosecuting authorities. The harshness of such a choice did not provide a good ground for staying civil proceedings in *V v C* (*supra*) or in *Jefferson Limited v Bhetcha* [1979] 1 WLR 898.

ix) In the event that the court were to be satisfied that there would be a real risk of serious prejudice leading to injustice if the civil proceedings continue, then the proceedings should nevertheless not be stayed if safeguards can be imposed in respect of the civil proceedings which provide sufficient protection against the risk of injustice: see e.g. *Re DPR Futures* [1989] 1 WLR 778, per Millett J at 790G; *A-G for Zambia v Meer Care & Desai & Ors* (*supra*) at paragraphs 30-33.”

26. *One Unique LLC v Babae & Ors*, [2026] EWHC 717 (Comm) (“**One Unique**”), is a recent example of these principles being applied. HHJ Bird (sitting as a Judge of the High Court) said:

“[18] I then turn to consider the application for stay based on the existence of concurrent criminal proceedings brought by way of a private prosecution. The criminal proceedings have now proceeded to an arraignment, and the matter has been referred for trial to the Crown Court. KB says that the civil proceedings should be stayed pending the outcome of the criminal proceedings.

[19] Mr Krsljanin sets out the applicable principles at paragraphs 43 to 46 of his skeleton argument. I accept those principles as a fair summary of the law. The following points appear:

i) The overarching point is that a stay should only be granted where a stay is in the interests of justice (see *Athena Capital Fund v Secretariat of State of the Holy Sea* (sic) [2022] 1 WLR 4570 at paragraph 59 per Males LJ).

ii) A claimant in civil proceedings normally has a right to have his claim “processed and heard and decided.” Ordering a stay is an interference with those rights. The circumstances of the case must justify an interference with those rights and the burden of establishing that justification lies with the party seeking the stay (most commonly of course, the Defendant but the applicant may be the prosecutor) see *Jefferson v Bhetcha* [1979] 1 WLR 898.

iii) Para.9 of PD 23A is dedicated to such applications. It provides that “*the evidence in support of the application must contain an estimate of the expected duration of the stay and must identify the respects in which the continuance of the civil proceedings may prejudice the criminal trial.*” This mandated information seems to me to set the minimum threshold for the evidence required to allow the court to assess if a stay is required.

iv) The power to order a stay “*has to be exercised with great care and only where there is a real risk of serious prejudice which may lead to injustice*” (*Akcine Bendrove Bankas Snoras v Antono* [2013] EWHC 131 (Comm), citing *R v Panel on Takeovers and Mergers ex p Fayed* [1992] BCC 524).

v) It is incumbent on the applicant to point to “a real and not a notional risk of injustice” (*Panton v Financial Institutions Services Limited* [2003] UKPC 8 also cited in *Akcine*).”

[20] KB expressed concern that findings in the civil trial would prejudice a fair outcome in the criminal trial. He felt that adverse findings in the civil trial could prejudice a jury. His concern is heightened because he describes himself as a “*high profile individual*” and so the civil trial is likely to attract some press interest. He felt that prejudice might arise if he was forced to reveal his defence in the civil proceedings and was concerned about funding both sets of proceedings.

[21] I am satisfied that there is nothing in any of these points taken individually or together that would warrant a stay of the civil proceedings:

i) I do not accept that even adverse findings in the civil trial (and the outcome plainly cannot be judged at this stage) would prejudice his criminal trial. Taking the worst-case scenario (from KB’s point of view), I am satisfied that a fair criminal trial could in any event take place. Whether evidence of the outcome of civil proceedings would be admissible in the criminal proceedings will be a matter for the Judge in those proceedings. Given the different standard of proof at play (balance of probability as opposed to “sureness”) it is entirely possible that a negative outcome would be inadmissible.

ii) If there is press interest in the civil proceedings and the outcome is reported it is likely that knowledge of the reports will have an effect on jury selection and in any event the jury would be required (and reminded) to try the case only on the basis of the evidence they hear in court. I bear in mind that the civil trial is listed for June 2026 and that the criminal proceedings are likely to take many years to come on. By the time the criminal trial comes on, the civil proceedings are likely to be old news.

iii) I am not persuaded there is anything in the revealing his defence point. In truth KB was very happy to talk about his defence in the hearing before me making specific reference to the fact that he was simply recouping business expenses and the extent of the sums due is exaggerated.

iv) In my view there is nothing in his funding point. He will be entitled to legal aid for his trial in the Crown Court. It is not clear from the evidence what the difficulty is; is it that he only has the means to fund representation in one set of proceedings at a time or is it that he will run out of money if the civil proceedings go ahead? I accept he is presently bankrupt, but he does seem to have representation from time to time including Leading Counsel in the criminal case.

[22] For those reasons I am not persuaded that if the civil proceedings continue there is a real risk of serious prejudice which may lead to injustice. The application to stay the civil proceedings because of the criminal proceedings is therefore refused. Had it been necessary to consider the effect of a stay on the Claimant, I would have concluded that the prejudice to the Claimant that would arise if the stay was ordered would far outweigh the prejudice suffered by KB if the stay was refused.”

27. The two authorities I have just cited deal with staying civil (rather than tax tribunal) proceedings, but they are concerned with the same issue (see the point in *One Unique* at [19](i)) which engages the FTT (whether it is fair and just to stay proceedings) and their approach is clearly one the FTT should follow.

THE FTT’S DECISION AND REFUSAL

28. Mr Naseemdost is involved in two sets of criminal investigations. The first is a HMRC investigation (Operation Eilat). Here the FTT noted (in the Decision) that “HMRC have confirmed that the criminal investigation in Operation Eilat concerns suspected trade-based

money laundering activity between 6 April 2021 and 21 September 2022 involving primarily Alonzo Paris Ltd, Exclusive (G.B.) Limited, INWI Limited, Style Boutique Limited, Synergy Euro Ltd, Sonexis Limited and Preparation Limited”.

29. The second investigation (Operation Calcite) is being run by the Greater Manchester Police (“GMP”) and it deals with alleged immigration, fraud and money laundering offences covering the period October 2022 to October 2024, when Mr Naseemdost was arrested.

30. The Letter is (unsurprisingly) a brief document, which does not engage in a detailed analysis or citation of the law. However, it makes it very clear that the FTT had considered the parties’ submissions and that the FTT was swayed in its Decision by the lack of overlap between the matters with which the FTT was concerned (Keene Distribution Limited’s VAT return periods between November 2011 and May 2015) and the matters which were subject to the HMRC and GMP criminal investigations.

31. The second factor that influenced the Decision was that the criminal investigations had been going on for a long time (over 5 years) but not resulted in any charges. A charging decision could be some time away and any criminal proceedings would take a significant time. Staying the FTT proceedings in such circumstances would not further the overriding objective.

32. The reasoning behind the Decision is expanded in the Refusal. As well as making it clear that the decision to stay (or not) was “an exercise of judicial discretion in accordance with the overriding objective”, the FTT referred to the test applied in *Bittar* (which reflects paragraph [18](i) of *Akcine*).

33. A letter from Mr Naseemdost’s criminal solicitors received before the FTT decided whether to give permission to appeal indicated that a charging decision by GMP was imminent, whereas HMRC had applied to extend Mr Naseemdost’s bail to February 2027 and needed to instruct a new expert before the matter could be referred to the CPS. From this the FTT concluded that “Whilst a charging decision in one investigation (GMP) may be imminent, a decision in the HMRC investigation clearly is not.”

DISCUSSION OF THE GROUNDS OF APPEAL

34. There are two issues I need to decide. The first is whether the FTT misdirected itself on the law. The second is whether its conclusion was outside the generous ambit of discretion entrusted to it.

35. Dealing with misdirection on the law first, it is very clear from the Letter as well as the Refusal that the FTT understood that its case management decision was “an exercise of judicial discretion in accordance with the overriding objective”. It needed to weigh up what the parties submitted, which is what it said it had done.

36. It is also clear (although it never mentioned the Convention by name) that the FTT was aware that it needed to take Mr Naseemdost’s Convention right to a fair trial into account. We can see this in paragraphs 11, 12 and 13 of the Refusal, when the FTT addressed the risk of the FTT proceedings producing “bad character” evidence. The FTT was clearly aware of the need to respect Mr Naseemdost’s Convention right to a fair trial.

37. We see the FTT exercising the same concern for Mr Naseemdost’s Convention rights in the run-up to the Decision when, on 1 September 2026, the FTT directed the Applicants to provide details of a number of matters, including the nature of any charge or indictment, the factual period or transactions to which any prospective charge would relate, any criminal trial date or reliable estimate of when a charging decision will be made, any particular evidence which Mr Naseemdost cannot give in the appeal, any particular question which would expose him to an identified risk, and why any specific risk could not be addressed by a targeted

procedural safeguard rather than postponement of the whole appeal. This last question reflects the issue discussed in *Akcine* at [18](ix).

38. During the oral reconsideration, Mr Nawaz did not seriously suggest that the FTT misunderstood the correct principles to adopt, nor is there any suggestion that the FTT did not consider all relevant material or take into account irrelevant matters.

39. I am sure that the FTT correctly identified the principles it needed to apply.

40. Turning to its overall conclusion, the FTT identified that pointing against a stay was the fact that the FTT proceedings had been going on for a long time and a hearing date had been set. Although Mr Naseemdosht had been arrested and was on bail, no charges had been brought against him. The GMP might be about to reach a charging decision, but HMRC's decision was some time away. Even if Mr Naseemdosht were charged (at least by GMP) soon, it would be some time before the GMP's criminal proceedings would be concluded and HMRC's would be even further behind. The overriding objective and HMRC's (and the public's) interest in the FTT proceedings moving forward (see *Akcine* at [18](ii)) strongly pointed towards a stay being refused.

41. Looking at the issue from Mr Naseemdosht's perspective, the FTT looked to see whether the proceedings before it created a real risk of Mr Naseemdosht being unable to receive a fair trial were he to be charged as a result of either (or both) of the criminal investigations.

42. The starting point in analysing that risk is (as the FTT concluded) that it is very low, as there is no overlap between the criminal investigations and the FTT proceedings.

43. The identified risk is of adverse findings in the FTT proceedings which the prosecuting authorities might seek to deploy against Mr Naseemdosht in any later criminal proceedings. The FTT addressed this as possible "bad character" evidence.

44. This is a point Mr Nawaz developed in the oral reconsideration. He was very critical of the way HMRC has been dealing with the Applicants. He says they have cited another FTT decision involving a company controlled by Mr Naseemdosht as a reason to continue his pre-charge bail, even though that decision is under appeal. This (he says) shows that findings in the FTT may be deployed against Mr Naseemdosht in criminal proceedings. There is (he says) a particular risk as HMRC's case before the FTT involves references to unsupported cash receipts by Keene Distribution Limited and there are parallels between the FTT appeal and the criminal case for HMRC, which is that there have been potentially "bogus"/unsupported cash receipts said to amount to 'trade based money laundering'.

45. Mr Nawaz says that HMRC have constantly "harried and bullied" the Applicants and described HMRC's investigations and search for evidence as "complete skulduggery".

46. Mr Nawaz says HMRC's behaviour has had material, negative impacts on Mr Naseemdosht, who can no longer travel (he has had to surrender his passport as a bail condition) and who currently has no real earning power and is worried about legal costs. Mr Nawaz submitted that HMRC might use points that emerged during the FTT hearing against Mr Naseemdosht, possibly even going so far as to expand the scope of their investigation and any future charges.

47. The FTT considered that the risk of bad character evidence could be perfectly adequately managed by the Crown Court. I agree. It is far better for any such risk to be identified and managed in the Crown Court (when the risk can be addressed in context) than for the spectre of that abstract risk to defeat HMRC's (and the public's) interest in a fair (which must include expeditious, as far as possible) determination of the ongoing civil proceedings, which deal with completely different matters.

48. I agree with Mr Nawaz that there is a risk of adverse findings against Mr Naseemdst in the FTT proceedings which could prejudice any future criminal trial. That risk (of something emerging which triggers a criminal investigation or provides adverse evidence in any future criminal proceedings) must be inherent in any civil proceedings. However, I am satisfied (as the FTT was when it addressed the bad character issue) that a fair criminal trial could event take place were this to happen. Whether evidence of the outcome of FTT proceedings would be admissible in the criminal proceedings would be a matter for the judge in those proceedings. As HHJ Bird noted in *One Unique*, given the different standard of proof at play (balance of probability as opposed to “sureness”), it is entirely possible that adverse findings would be inadmissible, even if relevant (which, given the lack of overlap, they might be held not to be).

49. Mr Naseemdst has (Mr Nawaz tells me) furnished a detailed witness statement with numerous exhibits. A lot of material (including Mr Naseemdst’s account of matters) has, therefore, already been disclosed. Given the existing level of disclosure by both parties, the only risk to Mr Naseemdst in the FTT proceedings continuing would seem to be of something adverse to his interests in any criminal proceedings emerging from his cross examination on the entirely different matters before the FTT. That seems to me to be entirely speculative.

50. Mr Nawaz’s concerns/complaints about HMRC’s behaviour to date (if correct) may affect the admissibility/weight of HMRC’s evidence in the FTT or criminal proceedings, but it is hard to see how they add weight to the application for a stay pending the outcome of any criminal proceedings.

51. Mr Nawaz says that, on account of the stress he has been under and his ability to understand certain matters, Mr Naseemdst is a vulnerable individual who needs to be protected and helped. Again, if correct, that will need to be addressed in FTT or criminal proceedings, but it is not a matter which adds any weight to the application for a stay pending the outcome of any criminal proceedings.

52. Mr Nawaz mentioned that Mr Naseemdst is worried about legal costs, but he did not suggest that continuing with the FTT hearing would materially impact on his resources. Given that the hearing is due to start on 19 October, I would expect that most of the FTT costs will have been incurred by now, so a stay is unlikely to relieve much of any financial pressure on Mr Naseemdst. If anything, a stay is likely to add to the eventual total costs, as Mr Nawaz will need to reacquaint himself with the case before any postponed hearing takes place.

53. In his oral submissions, Mr Nawaz said that the FTT proceedings should be stayed unless the FTT could be certain that nothing could emerge that could adversely affect Mr Naseemdst. That is clearly not the correct test. To be weighed in the scales against HMRC’s (and the public’s) interest in the FTT proceedings going ahead and not to be found wanting, what the Applicants need to show is “a real and not a notional risk of injustice”, “a real risk of serious prejudice which may lead to injustice”, if the FTT proceedings were to go ahead before any criminal proceedings had concluded.

54. The risks Mr Nawaz pointed me to (something adverse emerging in Mr Naseemdst’s cross examination in the FTT, or some other adverse finding in the FTT proceedings, or “mission creep”, something said in the FTT suggesting new lines of criminal enquiry not previously thought of by HMRC or GMP) are all purely speculative matters, which can be managed if they emerge. That level of speculative concern goes nowhere near suggesting a real risk of serious prejudice which could make it fair and just to stay the FTT proceedings despite HMRC’s (and the public’s) interest in those proceedings going ahead.

55. The Decision was plainly well within the bounds of the FTT’s discretion (indeed, I find it hard to see how the FTT could have come to any other conclusion) and, as such, it is not one the UT would interfere with.

CONCLUSION

55. I refuse permission on all grounds of appeal because they do not raise arguably material errors of law in the Decision. I am not satisfied that any of these grounds hold realistic prospects of success and there is no other compelling reason to grant permission to appeal on those grounds.

56. Permission to appeal to the UT is **refused** on all grounds.

Signed: MARK BALDWIN

JUDGE OF THE UPPER TRIBUNAL

Date: 19 October 2026

Issued to the parties on: 21st October 2026