



TC03337

Appeal number: TC/2013/01535

APPLICATION – hearing in private - refused

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

CONSULTANT SERVICES GROUP LIMITED Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S Respondents
REVENUE & CUSTOMS**

TRIBUNAL: JUDGE J. BLEWITT

Sitting in public at Manchester on 12 February 2014

Ms R. Graham of RW VAT Services Ltd for the Appellant

Mrs A. Sinclair, Officer of HM Revenue and Customs, for the Respondents

DECISION

5 1. The Appellant made an application by email dated 18 September 2013 that the appeal should be heard in private under Rule 32 (2) (c) of The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Regulations 2009.

2. The reasons put forward in support of the application are:

10 • It is considered highly likely that the hearing will require the Appellant to disclose confidential and sensitive information which could be of value to the Appellant's competitors in a price-sensitive industry; and

• Hearing the appeal in private will not impact on HMRC's current policy or published practice and may prevent a significant number of similar cases arising if the Appellant succeeds.

15 3. HMRC objected on the basis that the reasons put forward did not justify a direction that the hearing be in private, citing in support:

• McNicholas Construction Company Ltd (LON/97/578);

• A Practitioner (Decision Number 18459); and

• RMSG (A Partnership) (LON/93/1336A).

20 4. I refused the application and these are my reasons for doing so. Rule 32, so far as material, provides:

“(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Tribunal may give a direction that a hearing, or part of it, is to be held in private if the Tribunal considers that restricting access to the hearing is justified –

(a) in the interests of public order or national security;

25 *(b) in order to protect a person's right to respect for their private and family life;*

(c) in order to maintain the confidentiality of sensitive information;

(d) in order to avoid serious harm to the public interest; or

(e) because not to do so would prejudice the interests of justice.”

30 5. The Rule makes clear that the presumption is that hearings are to be held in public and the threshold the Appellant must surmount for a hearing in private is a high one.

6. The effect on HMRC policy and prevention of attracting similar cases are not, in my view, proper considerations nor do they fall within any of the criteria set out in Rule 32; to the contrary it is arguable that such reasons could be said to offend the interests of justice.

5 7. The remaining reason put forward is the potential for “sensitive information” to be disclosed. Ms Graham was unable to provide any specific details as to the type of information envisaged as being required nor did it appear that any such information had been identified as relevant.

10 8. In my view there is no information before me upon which I can conclude that any of the criteria of Rule 32 are met and accordingly no good or sufficient reason upon which I can properly direct a hearing in private.

9. The application is refused.

15 10. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

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J. BLEWITT
TRIBUNAL JUDGE

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RELEASE DATE: 13 February 2014