



**TC03686**

**Appeal number: TC/2014/00708**

*Income tax – penalty for late payment – whether reasonable excuse*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**ABDUL SALAM SEID AHMED**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE WDF COVERDALE**

**The Tribunal determined the appeal on 03.06.2014 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 03.02.2014 (with enclosures), HMRC's Statement of Case submitted on 16.04.2014 (with enclosures) and the Appellant's Reply dated 13.05.2014 (with enclosures).**

## DECISION

- 5 1. The Tribunal decided that the Second Late Payment penalty in the sum of £298.00 in respect of tax due for the year 2011/2012 was properly imposed.
2. The appeal is dismissed.
3. The Tribunal found that there was no reasonable excuse for the late payment of tax. In particular it was noted that following the electronic submission of the Appellant's 2011/2012 tax return on 30.01.2013 the tax was due to be paid on or  
10 before 31.01.2013 but a substantial proportion of that tax remained outstanding at the date of preparation of the Respondent's Statement of Case, 12.03.2014.
4. The Appellant has said that he mistakenly confused the self assessment issues with another assessment period in respect of which he was also appealing; being a professional person (a practising solicitor) he could reasonably be expected to take  
15 greater care of his personal tax affairs.
5. The Appellant says that he was in poor health at material times; it is noted that he has produced medical evidence of illness which is said, in his letter of appeal, to have begun in March 2013 i.e. after the date that the tax was due to be paid. He was referred to the "Heart and Mind" hospital department in August 2013 which was some  
20 six months after the tax was due to be paid. According to his Reply to the Respondent's Statement of Case he was attending to clients' business in his office after 31.01.2013.
6. The Appellant says that he was suffering from anxiety and stress relating to his wife's pregnancy and this impacted upon his ability to be aware of deadlines for the  
25 payment of tax; it is noted that his wife gave birth to twins on 16.09.2013, some seven and a half months after the date his tax was due to be paid. It is also noted that the Appellant has produced a letter from Dr T Watson dated 21.08.2013 stating that his wife's mother "is best placed to provide this support for her". The Tribunal concludes that these health matters cannot constitute reasonable excuse.
- 30 7. The Appellant has a poor record of compliance with deadlines for payment of tax so in the past he will have received numerous notices from the Respondents reminding him of his responsibilities. He will, of course, also have received a 30 day penalty notice issued on 19.03.2013 and this will have alerted him to the importance of making a speedy payment.
- 35 8. Insufficiency of funds is not a reasonable excuse unless attributable to events outside the Appellant's control: Paragraph 16(2) Schedule 56 Finance Act 2009. The Appellant does not, in fact, rely upon insufficiency of funds in his letter of appeal.
9. The Respondents have correctly observed that the actions of a taxpayer should be considered from the perspective of a prudent person, exercising reasonable  
40 foresight and due diligence, having proper regard for his responsibilities under the Tax Acts. The Appellant has failed to demonstrate that his actions met those criteria and that he could not have avoided the default giving rise to the penalty.

10. In summary, therefore, the Appellant does not have a reasonable excuse, existing throughout the failure period, for his failure to pay his tax on time. He could reasonably have foreseen his liability to pay the tax, the tax return having been completed electronically on 30.01.2013, and he has not taken steps to meet his obligations.

11. 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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**WDF COVERDALE  
TRIBUNAL JUDGE**

**RELEASE DATE: 5 June 2014**

