TC03705

Appeal number: TC/2012/06719

FIRST-TIER TRIBUNAL
TAX CHAMBER

VAT – holding company - economic activities - taxable supplies – intra-group loan finance - intra- group management services- HELD – loan finance quasi- equity - not carried on on commercial basis –not economic activity – management services – insufficient link between fixed fee and services provided – not taxable supply - appeals dismissed.

AFRICAN CONSOLIDATED RESOURCES Plc **Appellant**

- and -

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

TRIBUNAL: JUDGE RACHEL SHORT
MR CHRISTOPHER JENKINS

Sitting in public at 45 Bedford Square, London WC1B 3DN on 14 April 2014

Robin John of Wellden Turnbull LLP representing the Appellant

Ms Hui-Ling McCarthy instructed by the General Counsel and Solicitor to HM Revenue and Customs for the Respondents

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DECISION

1. This is an appeal against a refusal by HMRC to register African Consolidated Resources Plc ("ACR") for VAT notified to ACR on 19 April 2012 (original appeal number 06719), and against an assessment made on ACR on 2 August 2012 of £25,422.21 in respect of incorrectly claimed input VAT by ACR for the VAT periods 10/08, 01/09 and 04/09 (original appeal number 08235).

2. The Tribunal directed that these two appeals be consolidated and heard together under appeal number 06719.

Background Facts

3. ACR was originally registered for VAT with an effective date of 5 April 2005 and described itself in its application for registration as "*a holding company for mineral exploitation in Africa*". ACR was de-registered for VAT by HMRC on 1 February 2010 but applied to be re-registered on 15 November 2011. In that second registration application ACR's activities were described as "*acting as a holding company for mineral exploration subsidiaries in Africa and providing services and finances to such companies*". HMRC refused this request for re-registration.

4. ACR appealed to this Tribunal on 26 June 2012 (in respect of the refusal to register) and 23 August 2012 (in respect of disputed input VAT claims for the periods prior to its de-registration).

5. ACR is a UK company which currently has 7 employees and 3 directors, of which only one, Mr Tucker, is based in the UK. ACR was set up in 2005 and is a holding company for a number of subsidiaries. Canape Investments (Private) Limited ("Canape") in Zimbabwe is its main subsidiary but it has a number of other subsidiaries including two which are BVI companies, Millwall Investments Limited ("Millwall") and Moorestown Limited ("Moorestown"), which are also involved in mining activities in Africa. ACR provides debt funding to all of these subsidiaries and management services to Canape.

6. Mr Tucker is a chartered accountant and the finance director of ACR and also provides consultancy services to ACR under a consultancy agreement dated 26 June 2006. Management services provided by ACR to Canape were provided by Mr Tucker and were billed annually by ACR at a fixed fee of £10,000 for each of the years. These fees were settled by increasing the level of debt due from Canape to ACR, and no cash payments have been made.

7. Intra-group loan funding was put in place between ACR and Canape, Millwall and Moorestown in 2006 at a fixed 4% interest rate, with simple interest accruing on a daily basis. Interest has accrued but has not been paid on any of the intra-group loans made to date. Outstanding interest payments have been added to the amount of the debt outstanding between the subsidiaries and ACR. The loan principal is repayable on demand.

8. As a consolidated group, the ACR group has yet to make any profit. The group has invested in some potentially profitable mining projects, but some of these have been sequestered by the Zimbabwean government and ACR is involved in legal proceedings contesting this, including the Marange diamond mine (which was recognised as in ACR's ownership by a High Court decision in September 2009 but this was rescinded in September 2010) and the Pickstone Peerless Sulphide dump.

Preliminary Matters

9. Three VAT periods immediately before ACR was de-registered for VAT in February 2010 were not referred to in this appeal notice (periods 07/09 10/09 and 01/10) but it was agreed before the Tribunal that these periods and the input tax claimed in those periods should be treated as part of this appeal.

10. It was not disputed that HMRC's assessments were made within time in respect of each of the periods under appeal.

11. The Appellant produced a document on the day of the hearing with details of ACR's employees for 2014 to which HMRC objected. The Tribunal agreed to disallow this evidence.

The Issues In Dispute

12. The issues in dispute between the parties are whether the loan finance and management services provide by ACR to its subsidiaries amount to a economic activity or the making of taxable supplies such that ACR should be treated as a taxable person eligible to be registered for VAT in the UK and able to re-claim input tax attributable to the making of taxable supplies.

The Law

13. The relevant legislation relating to the right of businesses in the UK to be registered for VAT and to re-claim input tax is the UK Value Added Tax Act 1994 ("VATA 1994") which implements the EU Principal VAT Directive:

14. Article 9(1) of the EU Directive 2006/112/EC defines a "taxable person" as

> "*any person who, independently, carries out in any place any economic activity…. The exploitation of tangible or intangible property for the purposes of obtaining income there from on a continuing basis shall in particular be regarded as an economic activity"*

15. The UK legislation is set out at s 3(1) VATA 1994 which defines a "taxable person" as any person "*who is or is required to be, registered under this Act*."

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16. Paragraph 10, of Schedule 1 of VATA 1994 sets out the right to be registered for VAT:

> 10(1) *Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he -*
>
> *(a) makes supplies within sub-paragraph (2) below; or*

(b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

and (in either case) is within sub-paragraph (3) below, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.

10(2) A supply is within this paragraph if-

(a) it is made outside the United Kingdom but would be a taxable supply if made in the United Kingdom; or

(b) it is specified for the purposes of subsection (2) of section 26 in an order made under paragraph (c) of that subsection.

17. The Value Added Tax (Input Tax) (Specified Supplies) Order 1999 SI 1999/3121 is one of the orders specified under s 26(2)(c) and includes at Regulation 3:

Services

(a) which are supplied to a person who belongs outside the member States

(b) ……..

(c)……..…

Provided the supply is exempt, or would have been exempt if made in the United Kingdom, by virtue of any item of Group 2, or any of items 1 to 6 and item 8 of Group 5 of Schedule 9 of the Value Added Tax Act 1994.

Item 2 of Group 5 is the making of any advance or the granting of any credit.

18. S 26 VATA 1994 sets out the basis on which a taxable person can re-claim input tax:

S 26(1) *The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period…….. as is allowable by or under regulations as being attributable to supplies within subsection (2) below*

S26 (2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business-

(a) taxable supplies;

(b) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom;

(c) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.

The reference in the UK legislation to the carrying on of a business is construed for these purposes in accordance with the EU definition of an economic activity

The Evidence

19. The Tribunal was provided with a witness statement from Mr Tucker, which was taken as read. Mr Tucker was not cross examined by HMRC.

Management Services

20. We were provided with invoices for the consultancy services provided by ACR to Canape dated February 2008 and November 2009. No details were included in the invoices of the consultancy services to Canape, which just referred to a "Consultancy fee" for £10,000.

21. The board minutes of Canape of August 2010 referred to a consultancy fee payable including a statement that "*In future years this charge could be increased substantially if the Canape subgroup were to start earning substantial profits*".

22. We were shown a letter from Mr Tucker to HMRC of 5 March 2008 in which Mr Tucker said that the fees for the consultancy services charged to Canape "*took account of the fact that at this stage of its development Canape has no ability to pay except out of loans to (*sic*) ACR plc"*.

23. Mr Tucker explained that ACR provided consulting services to its subsidiaries, described in a letter from him to HMRC of 28 April 2008 as "*matters such as reports back of payments made, management and statutory accounts, diverse audit queries and general administrative matters"*

Loan Funding

24. The loans to ACR's subsidiaries were described by Mr Tucker as "informal" and no loan documentation was provided, but the interest payments and loan amounts outstanding were recorded in the companies' board minutes at the end of each year. The Tribunal saw the board minutes of ACR for July 2008 which referred to loans outstanding made to Canape and Millwall at a 4% rate of interest and ACR's board minutes of July 2009 and August 2010 which referred to loans outstanding to Canape, Millwall and Moorestown with summaries of amounts charged by way of interest and loans outstanding. The Tribunal saw the board minutes of each of Millwall, Moorestown and Canape for July 2009 and August 2010 which referred to interest payments charged on a loan from ACR, the amount of the loan outstanding and accrued interest.

ACR's role as holding company

25. We saw the Memorandum of Understanding produced by Mr Tucker at HMRC's request in September 2010 setting out the functions of ACR which stated that its functions were : (i) to act as a holding company (ii) to provide services to Canape including clerical, payment control, high level advice and policy advice services (iii) to act as financier to Canape. It also stated that "*the services are charged at the rate of £10,000 per annum while the Group as a whole is not earning any revenue. It is the intention when significant income does arise, or when there is a major realisation a more substantial fee will be paid to ACR Plc"*.

26. In email correspondence with Mr John of the same date Mr Tucker explained that he had not said anything to HMRC about other reasons why ACR might have provided services to its subsidiaries at less than market value such as "*over all group interest, desire to support the subsidiaries and quasi- equity"*.

27. Mr Tucker described ACR and its subsidiaries as "integrated" and said that ACR had a "hands on" approach to dealing with its subsidiaries. He confirmed that interest was charged at 4% on the inter-company loans. He said the rate had been set at 4% as "neither to high nor too low" and was a better return than ACR could receive from its bank. He confirmed that no interest or dividends had been paid by the subsidiaries to ACR to date.

28. Mr Tucker explained that ACR was AIM listed in June 2006 and had had five successful public fund raising issues behind it, the most recent being in February 2013.

Taxpayer's Arguments.

29. Mr John's view was that ACR should be treated as eligible to be registered for VAT and able to re-claim input tax for each of the disputed periods because ACR was carrying on economic activities and making taxable supplies. In particular, ACR's lending and management services provided to its subsidiaries were systematic and business like, with a view to earning profits and ACR should be treated as making taxable supplies in the course or furtherance of a business. He referred to the *Polysar* decision (*Polysar Investments Netherlands BV v Inspecteur der Invoerrechten en Accijnzen Arnhem* Case C-60/90) and the distinctions made between a holding company acting only in its capacity as a shareholder and a holding company with active involvement in its subsidiaries; "*the direct or indirect involvement without prejudice to the rights qua shareholder"*. He also referred to the decision in *Floridienne* which provided examples of the types of services which did amount to a business activity, such as administrative, accounting and information services which he said was in line with what ACR was doing for its subsidiaries (*Floridienne SA & Berginvest SA v Belgium* Case C-142/99).

30. Mr John said that despite the fact that no interest has been paid on the loans, there was consideration payable, and that this was merely contingent on the subsidiaries making money. Some elements of that contingency were beyond the subsidiaries' control (in particular the actions of the Zimbabwe government). He agreed that it was clear that there was a need for a link between the service provided and the consideration (referring to *Customs & Excise Comrs* v *Apple and Pear Development Council,* ([1984] STC 296)), but the concept of consideration should be considered widely. In Mr John's view there was no requirement for cash payment for there to be consideration or for the amount of consideration to have been agreed at the outset. He referred to De Voil, the *First National Bank of Chicago* case (*Customs & Excise Commissioners v First National Bank of Chicago* ([1998] STC 850)) and *Trafalgar Tours* (*Trafalgar Tours Ltd v Customs and Excise Commissioners* ([1989] STC 298)) to support this proposition.

31. Mr John argued that there was a realistic prospect that ACR would be paid by its subsidiaries, it was not fanciful that they would ever make money. It was in the nature of mineral prospecting companies that there could be a long gestation period before profits were made. The fact that the payments to be made by the subsidiaries were contingent on them making profits did not mean that the supplies were not commercial.

32. Mr John said that ACR was involved, either directly or indirectly in the activities of its subsidiaries and always intended to charge management fees for the services provided. On this basis and by reference to the criteria set out in the *Skatteverket* v *AB SKF* decision (Case C-29/08), ACR should be eligible to register

for VAT and re-claim its input tax related to the loan financing and management services provided to its subsidiaries.

33. Any lack of sophisticated documentation should not be taken as an indication of a lack of commerciality; it was not realistic to expect detailed documents to be produced on an intra-group basis. Mr John referred to the invoices which had been issued and explained that, taking the example of the 04/08 VAT return which referred to sales invoices of £235,025, this related mainly to interest plus a small management fee.

34. Mr John said that the subsidiaries had been financed by debt rather than equity as a protection against later third party equity investment in ACR or its subsidiaries, explaining that it was important to be able to set a precedent for debt funding.

HMRC's Arguments.

35. HMRC stressed that the burden of proof was on ACR to demonstrate that it was involved in substantive activities which would give rise to the right to be VAT registered as a taxable person. The mere production of invoices was not sufficient to demonstrate this. In their view ACR had been set up as a financing vehicle in the UK with the aim of getting its VAT back on the costs incurred by claiming that it was undertaking a business activity.

*Lending activities***:**

36. On the basis of the EU cases in this area, Ms McCarthy pointed out that there were three categories of holding company activities, with different VAT treatments as described in *Polysar*; a holding company acting in its capacity as a shareholder which is not an economic activity; a holding company making loans to subsidiaries, which is also not an economic activity; a holding company making loans to subsidiaries with a view to maximising the return on funds on a commercial basis, this is an economic activity. HMRC said that ACR's lending fell into the second of these types.

37. ACR's lending activity was not an economic activity as defined in the *Floridienne* decision. ACR's loans were quasi-equity and not comparable to commercial third party lending. The interest payments on the loans were entirely dependent on the companies making money. ACR did not expect that interest would be paid on the loans or that the capital would be re-paid until the subsidiaries made profits. The loans were not provided "*with a view to obtaining income by way of interest there from on a continuing basis*"

38. HMRC stressed that they had asked on a number of occasions for evidence from ACR of the substance of the activities which were being undertaken for the subsidiaries (referring to HMRC's correspondence with ACR from June 2006 to April 2010), but very little evidence had been provided. No detailed loan agreements had been provided; no detailed fee invoices had been produced.

Management Activities

39. As for the management services, there was no detailed evidence of what services had been provided by ACR to Canape and by reference to the six *Lord Fisher* indicia, this was a "speculative undertaking" by ACR and not a "serious undertaking earnestly pursued." and so could not be treated as made in the course of a business or economic activity (*Customs & Excise Commissioners v Lord Fisher (*[1981] STC 238)). The only detailed invoices provided were between Mr Tucker and ACR for his

consulting services to ACR. No detailed invoices existed for any services provided by ACR to Canape. HMRC pointed out that the evidence from the board minutes of the relevant companies suggested that the management fees were agreed retrospectively at the end of year and were contingent on Canape making profits.

40. HMRC accepted that the involvement of a parent holding company in the management of its subsidiaries could amount to an economic activity if it involved "administration, financial, commercial and technical services" as made clear in the *Cibo* decision (*Cibo Participations S.A v Directeur regional des impots du Nord-Pas-De-Calais* (Case C-16/00)).

41. Even if it could be accepted that the management services amounted to an economic activity, the supplies made by ACR to Canape could not be treated as taxable supplies because the fixed payments made by Canape could not be treated as consideration. If no consideration had been paid, the services could not be treated as taxable supplies.

42. HMRC referred to the *Finland* decision to demonstrate that consideration which was not directly linked to the value of the services provided was not to be treated as consideration for VAT purposes. In ACR's case there was no reciprocity and no sufficiently direct link between the fees and the services provided. (*Commission v Republic of Finland* Case C -246/08)

43. HMRC requested that if the Tribunal concluded that some but not all of ACR's activities could be treated as taxable supplies, the allocation of related input tax should take account of the principles of allocation set out in the *Skatteverket v AB SKF* case and that it should not be assumed that input tax related to overheads should all be deductible: "*There was a right to deduct input VAT paid on services supplied for the disposal of shares….. if there was a direct and immediate link between the costs associated with the input services and the overall economic activities of the person"*.

Decision:

Findings of Fact

44. On the basis of the evidence provided the Tribunal made the following findings of fact:

45. Management services were provided to Canape, ACR's main subsidiary in Zimbabwe for an annual fixed fee of £10,000 which was intended to increase if the profits of the subsidiary increased and was set at £10,000 as a level which the subsidiary could afford to pay, rather than by reference to the value of the services provided, as made clear by the letter from Mr Tucker to HMRC of 5 March 2008 and the board minutes of the relevant companies.

46. The intra-group loans were provided at a fixed interest rate of 4% which was set at inception of the loans and was not reviewed or changed during the term of the loans. The loans had no fixed re-payment date but were repayable on demand by ACR. Interest payable on the loans was accrued and added to the loan principal outstanding.

47. There were no written contracts for either the management services or the loans to the subsidiaries. The invoices for the management services provided to Canape referred generically to "consultancy fees" only.

48. No cash payments have been made to ACR by any of the subsidiaries, including Canape either in respect of the loan principal or interest or in respect of the management fees.

49. No profits have been made to date by either the subsidiaries or ACR from their mining activities.

Discussion

50. The Tribunal accepts that the failure by ACR to make profits to date is at least in part due to the nature of ACR's business and does not mean that ACR should not be treated as undertaking economic activities, or carrying on a business. We do not consider that it is "fanciful" that ACR and its subsidiaries will make profits, as evidenced by its AIM listing and successful fund raisings to date.

51. The Tribunal also accepts that it is not realistic to expect that the manner in which lending and management activities are undertaken intra-group will be strictly comparable to the way in which they would be undertaken between third parties. It is not reasonable to expect documents for loans to be as rigorous between group companies as they would be from a third party. The Tribunal has accepted that a lack of sophisticated documentation does not necessarily mean that the services are not being provided on a commercial basis, in the course or furtherance of a business.

Intra-group lending

52. It is clear from the authorities than intra-group lending can be an economic activity if it is undertaken on a commercial basis with the aim of making money from the lending activity itself. This is in line with the general principle of bringing within the scope of VAT activities which, if treated as exempt, would distort the market in circumstances where similar activities are treated as subject to VAT. As stated in *Polysar*, the over all aim of the VAT legislation is "*to ensure all economic activities are taxed in a wholly neutral way by collection of a tax on consumption….. only taxable persons have the right to deduct VAT already charged*".

53. We have accepted that it is not realistic for intra-group lending to exhibit all of the same characteristics as third party lending, but our view is that nevertheless some evidence is required that capital is being risked in order to make a return if the lending is to be treated as an economic activity. In the Tribunal's view there are a number of aspects of this intra-group lending which are not consistent with third party, commercial lending, or with the fact that ACR is risking capital in order to make a commercial return.

Contingent nature of loan funding

54. In the Tribunal's view, the contingency of the re-payment terms for these loans, both as regards interest and principal suggest that they are quasi-equity, as they were in fact described by Mr Tucker in his email to Mr John in March 2008. The authorities suggest that lending which is similar to equity funding does not amount to an economic activity as stated in *Polysar*. "*Even if the scope of economic activities is broad in scope, it does not cover acts accomplished exclusively on its own behalf*".

Commerciality of the loans

55. It was stated in *Floridienne* that a holding company providing capital to its subsidiaries could be an economic activity provided it was carried out with a business or commercial purpose. It is clear from the authorities that the passive earning of income from investments such as shares is not an economic activity, there needs to be some "exploitation" of assets to constitute a taxable activity: "*the mere acquisition of a financial holding in other undertakings does not amount to the exploitation of property for the purpose of obtaining income there from on a continuing basis because any dividend yielded by that holding is merely the result of ownership of the property*". (*Polysar*). Activities involving providing capital to subsidiaries have to be carried out on a commercial basis in order to amount to an economic activity.

56. In ACR's case, a fixed level of 4% interest was charged on these loans, and there was no detailed evidence supporting the commerciality of that rate. There is no evidence that the rate of interest was considered it detail when the loans were originally made, or that it was reviewed during the term of the loan, taking account of changing circumstances and the likelihood of repayment or any other changes in risk during the term of the loan. In fact, interest was automatically charged and rolled up at 4% each year.

57. The Tribunal's view is that a third party commercial lender might have been prepared to lend on these terms, but not, in our view, on a fixed basis with no defined term. Even if 4% was a reasonable rate at the outset, there is no evidence that ACR considered whether it continued to be a reasonable rate during the term of the loans or what, if any criteria would have been applied to consider what a commercial rate should be. For these reasons we agree with HMRC that ACR have failed to produce evidence to suggest that the intra-group loans were made and managed during their term on a commercial basis.

58. Our view is that in making loans on these terms, with fixed interest payments and no defined repayment date ACR was not "exploiting" any property and its actions were much more closely aligned to an equity investor than to a commercial lender and that this does not amount to an economic activity for VAT purposes. To use the terminology from *Polysar*, ACR was not "*carrying out its activities with a commercial purpose characterised in particular by a concern to maximise returns on capital investment*".

The Management Fees

59. In respect of the management fees, Mr Tucker referred to a "hands on approach" by ACR in managing its subsidiaries, but neither he nor ACR provided any details of exactly what services this hands on approach entailed providing. The invoices produced to the Tribunal in respect of ACR's services to Canape were generic, referring to "Consultancy fees". However, we have concluded that this lack of detailed documentation is not fatal to ACR's case; the test is one of substance rather than form.

The commerciality of the management fees

60. HMRC referred to the management fees as not referable to an economic activity because management fees of £10,000 a year had been charged retrospectively and there was little documentary evidence to indicate the nature of the services provided. They were not taxable supplies for the same reason that the loan financing was not a taxable supply, because they were predicated on the subsidiary's ability to pay.

61. The Tribunal considers that the test for whether the provision of management services made to a subsidiary can be an economic activity as set out in the case authorities (such as *Floridienne* and *Skatteverket v AB SKF*) is less stringent than that applied to loan financing, management services entailing by their nature some active involvement with the subsidiary undertaking and being more clearly separate from the parent's obligations as a shareholder and more readily falling within the "category three" type activities as set out in the *Polysar* case. On this point the Tribunal agrees with ACR that, despite the lack of detailed documentation, the services described by Mr Tucker which were supplied by ACR to Canape fell within the category of services set out in *Floridienne* which could be economic activities and went beyond the types of activity which could be treated as carried out by ACR merely in its capacity as a shareholder of Canape.

62. The Tribunal has considered whether the fact that the initial level of the management fee and any increase in the level of fees at a later stage was based on Canape's ability to pay alters this conclusion. The Tribunal does not consider that the "step up" nature of the management fees is in itself sufficient to suggest that the fees are not being provided on a commercial basis or as part of an economic activity. The Tribunal considers that a third party provider of services such as this might have been prepared to take a view on the level of fee which it would charge in the early years of a company's life, particularly a company involved in mining activities like Canape.

63. For these reasons the Tribunal has concluded that the management services provided by ACR to Canape can be treated as an economic activity undertaken by ACR.

Lack of consideration

64. Nevertheless, the Tribunal has concluded that the provision of management services for what was essentially a fixed fee based on what the subsidiary could afford cannot be treated as a taxable supply. The lack of any relationship between the level of the fees and the value of the services provided is made clear in the statements made by Mr Tucker in his letter to HMRC of 5 March 2008; "*the fees for the consultancy services took account of the fact that at this stage of its development Canape has no ability to pay…..*"

65. As made clear in the *Finland* and *Tolsma* decisions, in order for a supply of services to be treated as a taxable supply, there has to be some legal and economic link between the consideration paid and the services provided: "*A supply of services is effected for consideration…. only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the value actually given in return for the service supplied*". (*Tolsma v Inspecteur der Omzetbelasting Leuwarden* Case C-16/93) In this instance, there is insufficient evidence of an economic link between the value of what is being provided and the price which is being charged; in fact the evidence suggests that there is intentionally no such link. For that reason the Tribunal's view is that the management services are not being provided for valuable consideration and so should not be treated as taxable supplies by ACR for VAT purposes.

Conclusion

66. For these reasons the Tribunal has concluded that the making of loans by ACR to its subsidiaries was not an economic activity undertaken by ACR and the provision of management services was not effected for consideration and so did not amount to

the making of taxable supplies by ACR. Therefore HMRC's assessments for the 10/08, 01/09, 04/09 periods should stand, any input tax claimed for the 07/09, 10/09 and 01/10 periods should not be allowed and HMRC's decision to refuse to re-register ACR for VAT on 19 April 2012 is confirmed.

67. 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.

RACHEL SHORT
TRIBUNAL JUDGE

RELEASE DATE: 11 June 2014