



Neutral Citation: [2025] UKFTT 01507 (TC)

Case Number: TC09710

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Taylor House, London

Appeal reference: TC/2024/03537

VAT – Input tax – Whether Respondents were correct to deny Appellant’s claims for input tax credit – Appeal allowed

Heard on: 24 November 2025

Judgment date: 4 December 2025

Before

**TRIBUNAL JUDGE BROOKS
TRIBUNAL MEMBER MCBRIDE**

Between

ATHENA LUXE LIMITED

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY’S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Ben Blades, counsel (instructed by Direct Access)

For the Respondents: Opemipo Abolude litigator of HM Revenue and Customs’ Solicitor’s Office

DECISION

INTRODUCTION

1. The Appellant, Athena Luxe Limited (“**Athena**”) appeals against a decision of the Respondents (“**HMRC**”) to reduce its input tax claim for the 07/23, 08/23 and 09/23 VAT periods (the “**relevant periods**”) from £39,842.01 to £24,703.34 (a reduction of £15,138.67) on the grounds that Athena did not hold valid VAT invoices, as required by Regulation 14 of the VAT Regulations 1995 (“**VATR**”) and that it is reasonable in the circumstances for HMRC to refuse to exercise their discretion under Regulation 29 VATR in relation to the alternative evidence supplied.

2. Athena was represented by Ben Blades of counsel and HMRC by Opemipo Abolude litigator of HM Revenue and Customs’ Solicitor’s Office. We have taken account of all the evidence before us, the arguments advanced on behalf of the parties and all authorities to which we were referred even if not mentioned in this decision.

FACTS

3. Although both parties called witness evidence (for Athena, Ms Pui Lin its director and for HMRC, Officer Richard Vause) and took us to various documents in the Hearing Bundle there was no material dispute as to the facts.

4. Athena’s business is retail sale via mail order or the internet. It purchases luxury goods including watches, handbags and accessories in the UK and exports those items to customers outside the UK, primarily from Hong Kong. In essence (and it is not disputed) the business operates as follows in relation to all of its transactions:

- (1) A customer will contact Athena to order a specific item;
- (2) A director or employee of Athena will then purchase the item from a retailer and be reimbursed by Athena from its business bank account;
- (3) The retailer concerned is informed that the purchases are being made for Athena;
- (4) VAT invoices in the name of Athena are requested from the retailer by the person making the purchase; and
- (5) The item is then shipped to the customer who will pay Athena for the goods.

5. The purchases made by Athena are subject to VAT at the standard rate but the supplies it makes are zero-rated. As such it is entitled to recover input tax on its purchases.

6. This appeal concerns claims for input tax on purchases from Harrods (which accounts for 93% of the disputed input tax) and Louis Vuitton UK Limited (“**LV**”) which were denied by HMRC. Athena’s input tax claim on its purchases from Patek Phillipe were allowed.

7. Athena, which has been registered for VAT with effect from 26 June 2019, filed its VAT returns for its 06/23, 07/23, 08/23 and 09/23 VAT accounting period on 4 August, 6 September, 6 October and 6 November 2023 respectively. HMRC opened an enquiry into to 06/23 on 11 August 2023 which was subsequently extended to include the 07/23, 08/23 and 09/23 VAT returns. Athena provided further information to HMRC on 26 October 2023 which included purchase invoices from LV, Patek Phillipe and Harrods.

8. All Harrods invoices are in the same form. An example of a Harrods invoice is appended to this decision together with a Harrods till receipt. The invoice number, T0101-05903, reflects that on the till receipt NT0101-005903 and the concession (Hermes) and values (£9,960) match. The till receipt describes the purchase as “Hermes Kelly 25 II

Retourne”. Although the date of the invoice and till receipt differs by a day, Ms Lin explained that she understood that this was due to a typographical error by Harrods.

9. The invoices issued by LV did not refer to Athena by name but to Ms Lin or the Athena employee making the purchase. In a letter to HMRC (Officer Vause) dated 4 February 2024, Ms Lin explained:

“... for reasons unknown to us, [LV] have failed to provide compliant VAT invoices despite us requesting those invoices. As you will appreciate supplies from Louis Vuitton account for a very small proportion of our supplies and a very small proportion of the input VAT we have reclaimed.”

10. HMRC, by email of 9 November 2023, advised Athena’s accountant that the documents provided from Harrods and LV did not meet Rule 14 VATR and that the claims for input tax would be disallowed.

11. On 30 November 2023, notwithstanding that Athena’s business operated in an identical manner in relation to all of its suppliers/customers, HMRC accepted the repayment claim for 06/23 but issued a pre-decision letter for the periods 07/23 and 09/23. However, that letter was superseded by the decision letter for those periods (see below) and a request for the detailed VAT account for the 09/23 period.

12. Following further correspondence between the parties on 22 May 2024 HMRC (Officer Vause) issued notices formally reducing the input tax claimed for periods 07/23, 08/23 and 09/23 together with a letter explaining their reasoning (the “**Decision Letter**”). In evidence Officer Vause confirmed that HMRC did not dispute that there had been supplies made and that HMRC’s position was as stated in the Decision letter.

13. For this reason we consider it helpful to set out the Decision Letter (almost) in full:

“Dear Sir or Madam

I refer to previous correspondence.

Please accept my apologies for the delay in writing, any delays to processing the check and for any confusion that may have arisen during the course of our correspondence.

As there have been multiple letters over time, I am issuing this letter along with the assessments for 07/23, 08/23 and 09/23 periods. The assessments are issued separately to this letter.

Summary of checks

06/23 return: repaid without adjustment or an assessment. Discretion was allowed on an invoice as a second invoice from the same company was presented in the business name.

07/23 return: the return is made up purchases from Harrods and Louis Vuitton only. Total VAT claimed £10,053.34.

08/23 return: only the sole purchase from Harrods with a VAT value of £4,267 is in dispute.

09/23 return: held due to ongoing discussion regarding the validity of Harrods invoices in previous returns. VAT value of Harrods purchases £818.33.

10/23 return: repaid without adjustment or an assessment.

11/23 return: held due to difference in VAT account and return figure. See the end of this letter for further comment on this.

12/23 return: pending check opening.

07/23, 08/23 and 09/23 returns

The repayments have now been authorised and will be issued in the next 3-5 days.

All three of these returns contain purchases from Harrods. The 07/23 return also contains purchases from Louis Vuitton UK Ltd.

Louis Vuitton

Five purchase documents were presented. The purchasers named are:

[Names and Addresses of four Athena employees were included with one having purchased two items]

As the name and address of the person to whom the goods or services are supplied is not the business subject of the check, the invoices do not meet Regulation 29(2) of The Value Added Tax Regulations 1995 (VATR95) which states:

“At the time of claiming deduction of input tax in accordance with paragraph (1) above, a person shall, if the claim is in respect of –

(a) a supply from another taxable person, hold the document which is required to be provided under regulation 13;”.

Your letter of 5 December 2023 acknowledged that: “[t]he issue that you have with the Louis Vuitton invoices is that they do not contain Athena Luxe Limited’s name, but instead show the name of the employee/director who made the purchase on behalf of Athena Luxe Limited.

We appreciate that these are not valid VAT invoices, but understand the only reason HMRC is currently refusing to exercise its discretion (in accordance with paragraph 16.8.1 of VAT Notice 700) is that it is not clear that the purchase was made by Athena Luxe Limited.”

Your letter of 4 February 2024 stated that: *“the issue here is that certain suppliers (in particular, Louis Vuitton), for reasons unknown to us, have failed to provide compliant VAT invoices despite us requesting those invoices.”*

As the documents are not in the company name it follows that only giving consideration to discretion would enable the input VAT to be reclaimed. 16.8.1 says:

If you hold an invalid invoice the first thing you must do is go back to your supplier and request an invoice which meets these requirements. If you cannot do this, and can evidence why, you’ll need to satisfy HMRC that the following conditions have been met:

- there’s actually been a supply of goods or services
- that supply takes place in the UK
- it’s taxable at the standard rate or reduced rate of VAT
- the supplier is a taxable person, that’s someone either registered for VAT in the UK, or required to be registered
- the supply is made to the person claiming the input tax
- the recipient is a taxable person at the time the VAT was incurred

- the recipient intends to use the goods or services for business purposes
- You must also hold other evidence to show that the supply or transaction occurred.

As stated above, Louis Vuitton has not provided valid invoices despite your request. You have provided some financial records to show purchases from Louis Vuitton appended to your letter of 5 December 2023 consisting of an American Express statement in the name of [name of Athena employee], and a bank printout in the name of the director Ms Pui Pui Lin with transactions highlighted. A full bank statement in the company name showing the same data was provided in the further letter of 4 February 2024.

Having considered the further information it is my view that discretion should not be applied. The invoices do not show that the supply is made to the person claiming the input VAT and the recipient of the goods was not a taxable person at the time the VAT was incurred. The additional evidence does show payments by the business, however, as per 16.8.2 of VAT Notice 700, HMRC will give discretion to allow a claim for input tax when there's sufficient evidence to satisfy HMRC that a supply has taken place. But, where a business has systematically failed to obtain a valid VAT invoice HMRC will not consider exercising its discretion. I consider that the records show that the company has systematically failed to obtain valid VAT invoices.

At 16.8.3 is a list of some examples of evidence to show a supply occurred:

- bank statements clearly showing payment of the supply to the supplier
- purchase orders
- evidence of how you identified your supplier and your negotiations with them
- contracts between you and your supplier
- documents evidencing the transportation, storage or insurance of the goods
- any other documents that show a supply took place between you and your supplier

To date, none of the evidence supplied meets the published bullet points. I do not consider that discretion should apply in this case.

Harrods

The document sent by email on 23 October 2023 describes 'Department Sales – Hermes Concession for a transaction on 27 June 2023. It is detailed by Harrods as a 'VAT invoice' but it fails to meet regulation 14(1)(g) (VATR95). A further till receipt was sent with the letter of 4 February 2024 that shows the sale of a Hermes Kelly II Sellier 25 Veau Box. The till receipt does not meet regulation 16(1)(e) as it does not contain the VAT rate. Neither document is a valid invoice for input tax purposes.

You have stated in your letter of 4 February 2024: "*As to the second issue, I agree that Regulation 14(1)(g) requires invoices to contain "a description sufficient to identify the goods...supplied". I appreciate that the VAT invoice does not itself contain a description of the goods, but what it does contain is a description referring to the till receipt in question which is still sufficient to identify the goods. So, for example, the VAT invoice dated 28 September*

2023 (attached) identifies the Transaction Number as “T0059-01274”. You will see that number matches the number on the attached till receipt (save for the addition of an ‘N’ at the start on the till receipt).”

As a valid invoice is not held, then I can consider whether to give discretion to allow the input VAT claim.

The Harrods document presented is in the company name and it is assumed the other transactions across all three periods are as well. The principal issue is that document detailed as a ‘VAT invoice’ produced by Harrods is invalid.

Looking at the list in 16.8.3 as examples of evidence to show a supply occurred, nothing in the list above has been provided to show the original transaction dated 27 June 2023 was made to the business:

- bank statements clearly showing payment of the supply to the supplier
- purchase orders
- evidence of how you identified your supplier and your negotiations with them
- contracts between you and your supplier
- documents evidencing the transportation, storage or insurance of the goods
- any other documents that show a supply took place between you and your supplier

Therefore, I have considered allowing discretion and I do not consider it should apply to the purchases from Harrods in the three returns. ...”

14. Athena appealed to the Tribunal against that decision on 18 June 2024.

LAW

15. A VAT registered person (a supplier) who makes a taxable supply in the UK to a taxable person (the customer) must provide the customer with a VAT invoice (see regulation 13(1) VATR). If a supplier fails to comply with its duty to provide a VAT invoice, the customer has no private law right of action to enforce that duty which can only be enforced by HMRC (see *Claimants in the Royal Mail Group Litigation v Royal Mail Group Limited* [2021] EWCA Civ 1173 at [124]).

16. The contents of a VAT invoice and the particulars to be stated on it are set out in regulation 14(1) VATR. For present purposes, given HMRC’s position as stated in the Decision Letter, it is only necessary to refer to regulation 14(1)(g) VATR. This provides that a VAT invoice “shall state thereon”:

(g) a description sufficient to identify the goods or services supplied, ...

17. The Decision Letter also refers to regulation 16(1)(e) VATR. That regulation concerns Retailers’ invoices and provides that where the supplier is a retailer, it is not required to provide a VAT invoice unless requested to do so. If a customer does request a VAT invoice and the supply does not exceed £250 the contents of the invoice need not contain as much detail as required by regulation 14. However, as all purchases in the present case exceed £250 regulation 16 does not apply.

18. Regulation 29(2) VATR, gives HMRC a discretion to accept other evidence, as an alternative to a VAT invoice, to allow a deduction of input tax, it provides that:

(2) At the time of claiming deduction of input tax in accordance with paragraph (1) above a person shall, if the claim is in respect of—

(a) a supply from another taxable person, hold the document which is required to be provided under regulation 13;

...

provided that where the Commissioners so direct other generally or in relation to a particular case or classes of cases, a claimant shall hold or provide such other evidence of the charge as the Commissioners may direct.

19. As Lewison LJ (with whom Snowdon LJ and Sir Lancelot Henderson agreed) noted in *Tower Bridge GP Limited v HMRC* [2022] EWCA Civ 998 at [123], there are two exercises of discretion embedded in regulation 29 VATR. The first is whether to entertain an application to establish the right to deduct otherwise than by a compliant invoice and the second, if the first discretion is exercised in favour of the taxable person, is the discretion to specify the documentary evidence HMRC requires in order to prove that the input tax has been incurred.

20. Lewison LJ continued at [125], saying:

“As we have seen from the EU case law the court has held that national tax authorities should allow defective invoices to be corrected by the subsequent supply of information which ought to have been in the invoices in the first place but was not. That is the primary purpose of HMRC’s discretion under regulation 29.

21. The jurisdiction of the Tribunal in a case such as the present, where there is an appeal against the refusal by HMRC to exercise their discretion was helpfully summarised in by the Tribunal (Judge Baldwin and Mrs Akhtar) in *Betindex Limited v HMRC* [2024] UKFTT 222 (TC), at [4], as follows:

“It was common ground that the jurisdiction of the Tribunal ... is, as summarised in *HMRC v Ahmed (t/a Beehive Stores)* [2017] UKUT 359 (TCC) at [22]:

‘[22] Consequently, the FTT only has a supervisory rather than a full merits jurisdiction in relation to the decisions which are the subject of this appeal. The correct approach to determine the question as to whether the decision concerned could not reasonably have been arrived at is that set out in *Customs and Excise Commissioners v J H Corbitt (Numismatists) Ltd* [1980] 2 WLR 753 at 663 which is to address the following questions:

(1) Did the officers reach decisions which no reasonable officer could have reached?

(2) Do the decisions betray an error of law material to the decision?

(3) Did the officers take into account all relevant considerations?

(4) Did the officers leave out of account all irrelevant considerations?’”

22. Those questions are to be determined by reference to materials available to the decision maker at the time they exercised their discretion (see eg *FS Commercial Limited v HMRC* at [120]). Facts which would have been available if reasonable enquiries had been made should

be treated as having been available to the decision maker (see *R (oao JA) v London Borough of Bexley* [2019] EWHC 130 (Admin)).

23. If the Tribunal concludes that HMRC's decision was flawed, ie it was unreasonable, it should allow the appeal unless the decision would have inevitably been the same but for flaw(s) (see *GB Housley Limited v HMRC* [2017] STC 508 at [79] – [80]).

DISCUSSION AND CONCLUSION

24. For Athena, Mr Blades contends that the invoices it obtained from Harrods are valid VAT invoices; alternatively, if the Harrods invoices were not valid invoices HMRC have acted unreasonably in refusing to exercise their discretion under Regulation 29 VATR to allow the input tax; and HMRC have unreasonably refused to exercise their discretion under Regulation 29 VATR to allow the input tax incurred in relation to the LV invoices (which he accepts were not valid as they do not have Athena's name stated on them but instead show the name of the employee/director who made the purchase on behalf of Athena purchases).

25. Ms Abolude, for HMRC, maintains that the position of HMRC, as set out in the Decision Letter, is correct.

26. It is therefore necessary for us to consider whether the Harrods invoices are valid and, if not, whether HMRC's exercised their discretion reasonably in relation to those invoices and the LV invoices.

Whether Harrods invoices valid

27. In *Fount Construction Limited v HMRC* [2024] UKFTT 340 (TC) the Tribunal (Judge Frost and Mr McBride), having set out a passage from the decision of the Tribunal in *Deadoc Construction Limited v HMRC* [2015] UKFTT 433 at [58] in relation to the level of detail required on an invoice by regulation 14 VATR, observed:

“13. We consider that the purpose of the description required by the statute is twofold:

(1) Firstly, to enable both the recipient and supplier of the supply to have a common understanding of which services the invoice relates to, so that they can complete their respective VAT returns accurately.

(2) Secondly, to provide HMRC with a means of understanding the essential nature of the supply and a means of identifying the supply in correspondence with the recipient or the supplier in order to seek more information as needed.

14. We do not agree with HMRC's suggestion that the invoice description needs to be in such detail as to enable HMRC to draw definitive views on the VAT treatment of the supply from the invoice alone. HMRC have wide-ranging powers to seek further information in relation to the supply, and to refuse recovery of input tax if such information is not supplied. The invoice is the gateway into any enquiries by HMRC, rather than a repository for the answers to any questions that might be asked.”

28. Ms Abolude relied on the same argument that the Tribunal rejected at [14] in *Fount Construction*, ie that the information on invoice alone should be sufficient for HMRC to draw a definitive view. However, she was unable to advance any argument, let alone a convincing one, that the Tribunal in *Fount Construction* was wrong.

29. As such, and as a matter of judicial comity (ie although not binding, the Tribunal would follow and apply a previous decision of the Tribunal in a similar case unless it considered the previous decision to be clearly wrong), applying *Fount Construction* (which we consider was correctly decided) to the present case we find that the Harrods invoice, when considered

together with the corresponding till receipt, is a valid invoice that satisfies the requirement of regulation 14(1)(g). This is because, as we have noted at paragraph 8, above, it provides a description sufficient to identify the goods or services supplied.

30. Additionally, the position in the present case can be distinguished from that in *Tower Bridge* where it was not possible to correct a defective invoice as the supplier in that case was not VAT registered and therefore had no VAT registration number that could be supplied.

Exercise of HMRC's discretion

31. Given our conclusion that the Harrods invoices are valid it is not necessary for us to consider the reasonableness of otherwise of HMRC's discretion in relation to those invoices.

32. Although it is accepted that the LV invoices are not valid, we agree with Mr Blades that it was unreasonable of Officer Vause not to exercise his discretion in this case in relation to those invoices for the following reasons:

(1) Although it was accepted that Officer Vause did correctly interpret "systematically" (as explained in *R (oao Hotel Beds) v HMRC* [2025] EWHC 2312 (Admin) at [122] ie there had to be a threat of recovery of VAT emerging from a planned system and not just a repeated failure), there was no evidence on which such a conclusion could be reached and it was unreasonable not to have made further enquiries of Athena in this regard, especially as HMRC did not take into account that Athena had done all it could to obtain a valid VAT invoice (see paragraph 9 above) and had no right to compel LV to do so (that duty can only be enforced by HMRC see *Claimants in the Royal Mail Group Litigation* at paragraph 15, above);

(2) As stated in the Decision Letter, Officer Vause accepted that the "additional evidence does show payments by the business" (ie Athena) and therefore ought to have allowed recovery of the input tax had he correctly applied HMRC's guidance; and

(3) The distinction by Officer Rause between LV purchases (disallowed) and Patek Phillipe purchases (allowed) was irrational. As we have noted above (at paragraph 4), we consider the fact that Athena conducts its business in the same way regardless of the identity of its supplier/customer is a relevant consideration that ought to have been taken into account by Officer Rause when considering the exercise of his discretion. His failure to do so is, in our judgment, sufficient in itself for us to conclude that his decision was flawed and therefore one that could not reasonably have been arrived at (see *Betindex Limited* at paragraph 21, above).

33. Moreover, having come to a conclusion that the decision was flawed, ie was unreasonable, we do not consider that HMRC's decision would have inevitably been the same but for the flaw(s).

34. Therefore, it follows for the reasons above we allow the appeal.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

35. 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.

Release date: 4th DECEMBER 2025

APPENDIX

Doc No:16



Name: ATHENA LUXE LIMITED
Address:
 14
 SIDBURY CLOSE
 BERKSHIRE
 ASCOT, SL5 0PD
 GB
Business VAT Number:
 326495287

Invoice No (Till/Trans No): T0101-05903
Invoice Date (Till/Trans Date): 26 Jun 2023
Transaction Services Ref. No: FS02018735
Issue Date: 28 Sep 2023
VAT RegistrationNo: GB 629 2734 23

QTY	DESCRIPTION	ARTICLE NO.	VAT RATE	NET AMT	VAT AMT	GROSS AMT
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£137.50	£27.50	£165.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£137.50	£27.50	£165.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£137.50	£27.50	£165.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£341.67	£68.33	£410.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£341.67	£68.33	£410.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£262.50	£52.50	£315.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£262.50	£52.50	£315.00
1.00	DEPT SALES - HERMES CONC	9999999999798	20.00%	£6,541.67	£1,308.33	£7,850.00

TOTAL NET	TOTAL VA1	TOTAL GROSS
£8,300.01	£1,659.99	£9,960.00

HARRODS LIMITED, KNIGHTSBRIDGE LONDON SW1X 7XL
 T: +44 (0)20 7730 1234 • harrods.com
 Registered in England and Wales No.30209 • Registered Office: 87-135 Brompton Road, London SW1X 7XL

Harrods

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LONDON SW1X 7XL
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CUSTOMER COPY

27/06/23 14:22 Assistant 123537 NT0101-005903

You have been served today by
Pavel

945 0006663721 Personal Shopping	£0.00
798 9999999798 Hermes	£165.00
Ref: h063850s 13 3616671594310	
798 9999999798 Hermes	£165.00
Ref: h063850s 13 3616671594310	
798 9999999798 Hermes	£165.00
Ref: h063005s 02 3616671152121	
798 9999999798 Hermes	£165.00
Ref: h063005s 06 3616671151360	
798 9999999798 Hermes	£410.00
Ref: h073967caaa095 3609092985034	
798 9999999798 Hermes	£410.00
Ref: h073967caab095 3609092985072	
798 9999999798 Hermes	£315.00
Ref: h064544cb86 3606556036813	
798 9999999798 Hermes	£315.00
Ref: h064544ck05 3606556012091	
798 9999999798 Hermes	£7,850.00
Ref: H044624CC8L	

HERMES KELLY 25 II RETOURNE. MADE IN FRANCE.
CARE INSTRUCTIONS PROVIDED. SERIAL NO:
BCT529YC

TOTAL (10 items) £9,960.00

AMERICAN EXPRESS Tendered £9,960.00

Card : AMERICAN EXPRESS
LOC : **** *1005
Auth Code : 97
Merchant ID : *****39335
Terminal ID : *****6011
PAN Seq. : 00
AID : A00000025010801
Cryptogram : 40/0564C83A41DA787C

AMOUNT £9,960.00

Please debit my account as shown

Cardholder PIN verified
Please retain for your records

HARRODS REWARDS DETAILS

Rewards No. *****0195



00000801015903230626165306

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