Neutral Citation: [2026] UKFTT 123 (TC)

Case Number: TC09754

**FIRST-TIER TRIBUNAL**
**TAX CHAMBER**

Birmingham Civil Justice Centre

Appeal reference: TC/2022/11496
TC/2024/00472

*Excise Duties payable under s 6(1)(a) Hydrocarbon Oil Duties Act, claim for repayment of duty under s 9(4) – at what time does the claimant need to be an "approved person" for the purpose of the Act – at the time of application for relief or at the time of importation? Held – approved person status needed at or before the time of importation – appeal dismissed*

**Heard on:** 22 October 2025
**Judgment date:** 15 January 2026

**Before**

**JUDGE VIMAL TILAKAPALA**
**TRIBUNAL MEMBER SHAMEEM AKHTAR**

**Between**

**STARK BUILDING MATERIALS (UK) LTD**
**(FORMERLY SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED)**
**(TRADING AS CALDERS AND GRANDRIDGE)**

**Appellant**

**and**

**THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS**

**Respondents**

**<u>Representation:</u>**

For the Appellant: Mr Sam Brodsky, counsel, instructed by Simmons & Simmons LLP

For the Respondents: Mr Jim Duffy, counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs

## DECISION

### INTRODUCTION

1. This is an appeal in respect of excise duty in the sum of £931,152.73 paid by the Appellant pursuant to s 6(1) of the Hydrocarbon Oil Duties Act 1979 ("HODA") on imports of hydrocarbon oil (the "oil") made between 1 January and 17 May 2021.

2. The dispute relates to s 9 HODA and the appeal is against the Respondents' decision to reject the Appellant's claims under s 9(4) HODA for repayment of excise duty paid.

3. The Appellant maintains that the Respondents should repay the excise duty as the oil qualified for relief. However the Respondent submits that the oil did not qualify for relief and as such that the excise duty was collected correctly.

### THE STATUTORY FRAMEWORK

4. S 6 HODA is the primary charging provision. It provides so far as relevant:

> 6. Excise duty on hydrocarbon oil
>
> (1) There shall be charged on hydrocarbon oil –
>
> (a) imported into the United Kingdom; or
>
> (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being hydrocarbon oil chargeable with duty under paragraph (a) above, a duty of excise at the rates specified in subsection (1A) below.

5. S 9 HODA is the provision relevant to the Appellant's claim for relief from excise duty. It provides so far as relevant:

> 9. Oil delivered for home use for certain industrial purposes
>
> (1) The Commissioners may permit hydrocarbon oil to be delivered for home use to an approved person, without payment of excise duty on the oil, where-
>
> (a) it is to be put by him to a use qualifying for relief under this section; or
>
> (b) it is to be supplied by him in the course of a trade of supplying oil for any such use.
>
> […]
>
> (4) Where the Commissioners are authorised to give permission under subsection (1) above in the case of any oil, but the permission is for any reason not given, they shall, if satisfied that the oil has been put by an approved person to a use qualifying for relief under this section, repay to him the amount of the excise duty paid on the oil, less any rebate allowed in respect of the duty.
>
> (5)
>
> (a) "an approved person" means a person for the time being approved in accordance with regulations made for any the purposes of subsection (1) or (4) under section 24(1) below.

6. All section references in this judgment are, unless otherwise stated, references to sections of HODA.

### THE FACTS AND THE ISSUE FOR DETERMINATION

7. The facts of this case are not in dispute and the parties provided the Tribunal with an agreed statement of facts ("ASF") which is attached as an appendix to this judgment.

8. The ASF sets out the procedural history of the Appellant's claims together with the facts relevant to the appeal.

9. By way of summary, the Appellant is a company which imports significant amounts of creosote for use in its business, creosote being a hydrocarbon oil for the purpose of the excise duty regime set out in HODA.

10. The oil in question was imported by the Appellant into the UK from suppliers in Germany and Denmark and so excise duty became payable under s 6(1).

11. Under the HODA excise duty regime, relief from excise duties is provided under s 9. That relief can be provided in one of two ways.

12. The first method of relief is prospective relief under s 9(1). This is available for oil delivered for "home use" to "approved users" in respect of imports of oil which fall within one of two categories. The second method of relief is retrospective relief under s 9(4). This is available for "approved users" in respect of imports of oil which have been used for a "qualifying purpose".

13. It is retrospective relief under s 9(4) which has been claimed by the Appellant and which is the subject of this appeal.

14. The relief is claimed in respect of imports of oil between 1 January 2021 and 17 May 2021. The Claims for relief were made on 21 December 2021and 15 December 2023.

15. The parties have agreed that:

(1) The oil was put by the Appellant to "a use qualifying for relief" for the purpose of s 9(4).

(2) The Appellant became an "approved person" for the purpose of s 9 on 18 May 2021 and so was not an "approved person" at the time the relevant oil was imported by it into the UK.

(3) The Appellant was an "approved person" for the purpose of s 9 at the time it applied for relief under s 9(4).

16. The Parties' skeleton arguments identified several issues for determination. These were in summary:

(1) Whether the Appellant was the correct type of "approved person" for the purpose of a claim under s 9(4).

(2) Whether the Appellant's claims were made within applicable time limits.

(3) The time at which the Appellant needed to be an "approved person" in order to make a claim under s 9(4).

17. Prior to the hearing, the parties were able to reach agreement on issues (1) and (2). Specifically, they agreed that:

(1) The Appellant was an "Approved Person" for the purpose of s 9(4). The Respondents had contended previously that the Appellant could be entitled to repayment of excise duty only if it was an "Approved Repayment User" – a category of authorisation under the Hydrocarbon Oil (Industrial Reliefs) Regulations 2002 (the "Regulations"). The parties agreed however that there was only one category of approval for the purpose of the Appellant's claims under s 9(4) and that the Regulations were irrelevant in the context of this appeal.

(2) The Appellant was not out of time to make its claim for repayment under 9(4). The Respondents had contended previously that the Appellant's claim was subject to time limits contained in the Regulations. On agreeing that the Regulations were not applicable, this point fell away.

18. The single issue for determination in this appeal is the time at which a person must be an "approved person" in order to make a claim for repayment under s 9(4).

**PROCEDURAL MATTERS**

19. We were provided with a hearing bundle of 1094 pages, an authorities bundle and skeleton arguments from each party. Following the hearing the Appellant also provided at our request a copy of an extract from Halsbury's Statutes covering HODA.

**THE BURDEN OF PROOF**

20. The burden of proof rests with the Appellant to show that HMRC's decision to deny its repayment claims was incorrect.

21. The standard of proof is the ordinary civil standard which is the balance of probabilities.

**THE PARTIES' SUBMISSIONS**

*The Appellant*

22. Mr Brodsky submitted that on its proper construction s 9(4) requires a claimant to be an "approved person" at the time it makes its application for relief.

23. He relied upon the wording of s 9(4) and 9(5) and also upon his construction being consistent with the statutory scheme as a whole

24. In support of his submission Mr Brodsky made the following points.

*Statutory construction*

25. That the provision should, as a matter of statutory interpretation, be read purposively, interpreting the statutory language, to the extent possible, in the way which best gives effect to the purpose of the provision. He cited in this regard a number of cases including the Supreme Court decisions in *USB AG v HMRC* [2013] UKSC and *Uber BV v Aslam* [2021] UKSC 5.

*26.* That a meaning which avoids absurdity, irrational and/or unworkable consequences is to be preferred, and that the law should be coherent and self-consistent – he referred here to *Bennion, Bailey and Norbury on Statutory Interpretation.*

*The statutory scheme*

27. Mr Brodsky focused first on what he regarded as the overall purpose of s 9. He saw this as being to ensure that duty is charged on oil used as a fuel – but not charged where the oil is used or is to be used for purposes that qualify for relief. In this context s 9(1) provides for relief where an approved person is to use the oil for a suitable purpose and has been given the necessary permission by the Commissioners and s 9(4) provides for relief where an approved person has used the oil for a suitable purpose but has not been given permission by HMRC for relief under s 9(1).

28. He stressed here that the language used in s 9(4) and, in particular, the words "the permission *is for any reason not given* [by the Commissioners]" (his emphasis) indicated that a broad non-restrictive interpretation should be given to the provision.

29. He saw this, together with s 9(5) which defines an "approved person" as one approved "*for the time being*" as indicating that approval was required at the time of making a claim.

30. He noted also that if his interpretation was incorrect and a taxpayer had to be an approved person at the time of importation of the oil then; (a) a taxpayer who was not approved at that time but who had put the oil to a qualifying use and subsequently became approved would be unable to obtain relief for duty paid, and (b) delays by HMRC in conferring approved person status on a taxpayer would unfairly disadvantage a taxpayer. He added that the utility of the retrospective relief mechanism would be materially undermined. This is because if a claimant needed to be approved in advance, there would be little point in having an ability to claim retrospective relief under s 9(4) - as in all likelihood relief would have been available under s 9(1) in the first instance. He found it hard, therefore, to see where and in what circumstances a duty payer would want to or try to rely on s 9(4) if approved person status was needed at the time of importation or delivery.

31. He commented that if HMRC's interpretation was correct, it would be perverse to have goods which (in his view) qualified for relief under the express wording of the legislation but in respect of which there was no avenue for obtaining that relief. This would in his view be contrary to the fundamental purpose of the statute.

32. He also made the point that the margin for error or abuse of the excise duty system if the Appellant's interpretation was adopted was small – as HMRC would need to be satisfied in each case that the oil had been put to a qualifying use by an approved person. HMRC's contention that such an interpretation risked the integrity of the excise duty system was therefore not a strong one.

33. He went on to say that his view of the statutory scheme coincided, broadly, with the way in which the Court of Appeal in *British Steel v Customs and Excise Commissioners* [1997] 2 All ER 366 recognised the statutory scheme.

*HMRC's submissions*

34. Mr Duffy submitted that on its proper construction s 9(4) requires a claimant to be an approved person at the time the oil in question was imported.

35. In support of his submission he relied, as did Mr Brodsky, upon the language of s 9(4) and his construction being consistent with what he regarded as the statutory scheme as a whole and its purpose.

36. Mr Duffy also cited the judgment in *British Steel* as supportive of his submissions.

*Statutory construction*

37. Mr Duffy submitted that on its wording s 9(4) is "parasitic" on s 9(1) – and can apply only in circumstances where s 9(1) would have applied. As s 9(1) operates to disapply the charge under s 6(1) that would otherwise arise on importation, the relevant time by which a person must be "approved" is the time of importation.

*The statutory scheme*

38. He pointed out that under s 9(1) HMRC is able to confer approved person status on a taxpayer but can also choose not to give that approved person prospective relief from excise duty chargeable under s 6(1). This is why s 9(1) is framed permissively using the term "*may*".

39. He contended that the decision to give prospective relief under s 9(1) is a matter of discretion for the Commissioners and there could be specific reasons why they might decide to not allow relief in certain circumstances. For example, they might require additional conditions to be satisfied for excise protection by the approved person in respect of the expected oil

deliveries. It was, essentially, for the Commissioners to decide how to "police" the prospective relief mechanism under 9(1).

40. Relief under s 9(4) had to be seen in this context. In his view it was not a provision of general application but one of relatively narrow application which applied where the Commissioners had given a taxpayer approved status but (for whatever reason) chose not to give prospective relief. In these circumstances HMRC would be obliged to give retrospective relief if satisfied that the oil had been used for a qualifying purpose. He pointed out that s 9(4) was expressed in mandatory terms using the word "*shall*" in contrast to s 9(1) and its permissive drafting which supported his view of how the two mechanisms in s 9 are intended to operate together.

**DISCUSSION**

41. As identified by the parties, determination of this appeal is a matter of statutory construction. The single question is: at what point in time must a claimant be an "approved person" in order to make a claim under s 9(4) for repayment of excise duty charged under s 6(1).

42. The opening words of s 9(4) provide that it operates (a) "*where the Commissioners are authorised to give permission under [9(1)] in the case of any oil*" and (b) the permission is for any reason not given. "Permission" in this context means permission to deliver oil without payment of excise duty under s 6(1).

43. The starting point in determining its application must, therefore, be to establish the circumstances in which the Commissioners are authorised to give permission under s 9(1).

44. S 9(1) provides for permission to be given where oil is "*delivered for home use to an approved person*" in two circumstances. The first circumstance is set out in 9(1)(a) and is where the oil is to be put to use by that person for a qualifying purpose, and the second is set out in 9(1)(b) and is where the oil is to be supplied by that person in the course of a trade. These are, so far as relevant, the only circumstances in which the Commissioners can disapply the primary charge under s 6(1).

45. The threshold requirement for each of the circumstances in s 9(1) is that the oil in question is "*to be delivered for home use to an approved person*".

46. As s 9(1) operates prospectively, the Commissioners must, logically, have to give permission at or prior to the time the oil is imported in order for the primary charge under s 6(1) to be disapplied.

47. Without more, this scenario must logically be "*where*" (as per the opening words of s 9(4)), the Commissioners "*are authorised to give permission under [9(1)]*".

48. Importantly s 9(4) does not expand or alter the circumstances in which the Commissioners can give permission under s 9(1) or deem them to be able to give permission in any other circumstance. It simply looks to whether they are so authorised and if so whether permission is given.

49. As s 9(4) is limited by the scope of 9(1), the consequence must be that repayment of excise duty chargeable under s 6(1) can be made under s 9(4) only if the claimant was an approved person at (or before) the time of importation of the oil – so enabling the Commissioners to give permission under s 9(1). The status of the claimant at the time of making the application for retrospective relief under 9(4) does not alter this requirement.

50. On the facts of this case the Commissioners would have needed to conclude at or before the time of importation of the relevant oil that it was to be delivered to an approved person to be used for a qualifying use – as per s 9(1)(a).

51. Accordingly, we prefer Mr Duffy's analysis. S 9(4) must be read in the context of s 9(1). As Mr Duffy put it 9(4) is, on its wording, dependent on s 9(1).

*Is this interpretation consistent with the legislative scheme*

52. This interpretation of the interaction between s 9(1) and s 9(4) ties in with Mr Duffy's analysis of the "legislative scheme" as a scheme under which s 9(1) enables but does not compel the Commissioners to give an approved person prospective relief, with s 9(4) operating to require the Commissioners to give retrospective relief where they have chosen not to give prospective relief to an approved person but are satisfied that the oil has nonetheless been put by an approved person to a qualifying use.

*53.* This is a far narrower scheme than that which Mr Brodsky postulated for retrospective claims – but it is not one which is "absurd, irrational or unworkable" or which is incoherent and inconsistent. It is also the one which we consider fits the interpretation of the legislative wording.

54. We noted Mr Brodsky's comments on purposive construction and we do not disagree with the statements of law that he made.

55. However, the wording of s 9(1) and s 9(4) is not, in our view, sufficiently ambiguous to permit the interpretation of those provisions sought by Mr Brodsky and so that jurisprudence is of limited application.

*HMRC delay in granting approved person status*

56. We noted Mr Brodsky's comments about the adverse impact of potential delay by HMRC on a claimant who applied for approved person status noting also that on the facts of this case some of the oil in question had been imported after the Appellant had applied (on 26 March 2021) for approved person status but before that status was granted (18 May 2021) – there being some delay with the process.

57. However the consequence of potential delay by HMRC in administering the legislative scheme is not an issue that can impact our analysis of the legislation and any remedy for delay is outside the jurisdiction of this Tribunal.

*The British Steel case*

58. Both parties cited the Court of Appeal decision in *British Steel* as support for their submissions.

59. The case dealt with the question of whether British Steel ("BS") used the correct form of action in which to make a claim for repayment of excise duty paid under s 6(1) in circumstances where its claim for prospective relief under s 9(1) had been rejected by the Commissioners.

60. Its claim for relief under s 9(1) was rejected as the Commissioners did not agree that the use to which BS intended to put the oil was a qualifying use for the purpose of s 9.

61. The case centred on whether BS' claim for repayment of the duty should have been brought by way of judicial review, a claim for restitution under common law or another private law claim. The case discusses the relief mechanism under s 9(1) and the possibility of relief under s 9(4) but it is not entirely on point as:

(1) The case confirms that being an approved person is a prerequisite for relief under s 9(1) and s 9(4). However although recognised as essential, the point in time at which approval is needed for s 9(4) was not an issue considered by the Court. Further, BS was not actually an "approved person" as it did not formally apply for approval. Sir Richard Scott VC proceeded on the basis that there was an arguable case that the Commissioners

had nonetheless accepted BS as an approved person [page 377(d)], Millett LJ – proceeded on the basis that they were not approved and so relief would not have been available at all under s 9 - but because of the way in which the approval point had been addressed in the pleadings – agreed that the claim should not be struck out [383(a)].

(2) The case proceeded in the Court of Appeal on the basis that BS would. if its use was a "qualifying use", have been granted relief under s 9(1). The Court did not consider whether relief under s 9(1) is, as the Commissioners had argued, discretionary (although the judgment makes clear that determination of whether a use is "qualifying" is a factual question involving no discretion).

62. Millett LJ did, however, make detailed observations about the relief mechanism under s 9 which include some consideration of timing and it is this which Mr Duffy referred to specifically in his submissions.

63. We set out below the key passage from Millet LJ's judgment:

> "Once oil is released from bond it is beyond the control of the commissioners, and some safeguards are obviously necessary in order to prevent duty-free oil from being mixed with or treated as duty-paid oil and diverted to the black market or otherwise put to use for a non-qualifying purpose, The mechanism which Parliament had adopted is to confine the relief from duty to "approved persons", that is to say persons for the time being approved by the commissioners in accordance with regulations made by them … . Approval may be granted subject to conditions and providing for the conditions to be varied or the approval revoked for reasonable cause, The conditions may restrict the mixing of duty free oil, regulate the storage and movement of oil, and authorise the inspection of premises … .
>
> Approval is, therefore, a condition precedent to relief. The commissioners' authority to permit the release of oil from bond without payment of duty is confined by s9(1) to oil-
> 'to be delivered for home use *to an approved person* … where - (a) it is to be put *by him* to a use qualifying for relief under this section; or (b) it is to be supplied *by him* in the course of a trade of supplying oil for any such use.'
>
> Similarly the commissioners' liability under s 9(4) to repay duty previously paid arises only if they are satisfied 'that the oil has been put *by an approved person* to a use qualifying for relief under this section' (my emphasis). A person who intends to put oil to a qualifying use and who wishes to obtain relief from duty, therefore, must first obtain approval and comply with any conditions which the commissioners impose. Approval is not a formality, even in the case of a responsible applicant, It is an essential protection of the excise, since it provides the commissioners with the opportunity to agree conditions as to storage and so on which will prevent seepage to the black market. Unless and until the supplier or end user is an approved person the commissioners have no authority to permit the release of the oil without payment of the duty and no obligation to repay the duty even if the oil is afterwards out to a qualifying use." [p.380]

64. In this passage Millett LJ focuses strongly on the "excise protection" aspect of the approved persons regime and on the fact that once "released", the Commissioners have little control over the oil.

65. His approach could be taken as support for the proposition that it is the time of "release" of the oil (which in this case would be its importation) which is the critical point for the purpose of the regime and therefore the point in time at which approval is necessary.

66. However, we note also Mr Brodsky's submission that the excise protection proposition is not compelling as in order to give repayment relief under s 9(4) the Commissioners must "*be satisfied* that the oil has been put by an approved person to a use qualifying for relief" – and so

if they have concern about potential excise evasion having occurred they are not obliged to grant the relief. Although there would, as Mr Duffy, pointed out be potential practical and evidential issues that could be difficult for the Commissioners to address, Mr Brodsky's point is not an unreasonable one.

67. We are hesitant consequently to conclude that the judgment is clear support for either Mr Duffy or Mr Brodsky's propositions as there is some ambiguity in it and in any event the issue in question was not a central part of the case. Millet LJ did not need to examine in detail the issue that we are now required to.

68. We conclude that the case does not, therefore, materially assist either party

## DISPOSITION

69. For the reasons given above we prefer HMRC's interpretation of s 9(4) and conclude that it is necessary for a claimant to be an "approved person" at (or before) the time the oil in respect of which excise duty has been paid is imported.

70. Accordingly, the Appellant's claims for repayment of duty under s 9(4) are dismissed.

## RIGHT TO APPLY FOR PERMISSION TO APPEAL

71. 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: 15th JANUARY 2026**

## Appendix

## The Parties' Statement of Agreed Facts

**1. Introduction**

1.1 These appeals concern the Appellant's entitlement to repayment of excise duty paid on imports of creosote made during the period from 1 January 2021 to 17 May 2021.

1.2 Excise duty is imposed on the importation of creosote by virtue of the Hydrocarbon Oil Duties Act 1979 (the "Act"). It is under certain circumstances fully relievable.

1.3 The parties disagree on issues relating to whether the Appellant is entitled to a repayment of the excise duty.

**2. The parties**

2.1 The Appellant is Stark Building Materials UK Limited, a private limited company incorporate in England and Wales under company number 01647362. At the time when the excise duty that is the subject of these appeals was paid, the Appellant was known by its former name Saint-Gobain Building Distribution Limited, and traded under the name 'Calders and Grandidge'.

2.2 The Respondents are the Commissioners for HM Revenue & Customs.

3. The Appellant's business and use of creosote

3.1 The Appellant is a manufacturer of pressure-treated woods.

3.2 During the course of its business, the Appellant imports, takes delivery of, and uses in the UK significant quantities of creosote, which is a hydrocarbon oil (including for the purposes of the definition in s.1 of the Act and thus the Act as a whole)

3.3 Section 6(1) of the Act provides that hydrocarbon oil will be liable to excise duty where it is imported into the UK or, in certain circumstances, where it is produced in the UK and delivered for "home use". Pursuant to s.9(1) of the Act, however, the Respondents may permit hydrocarbon oil to be delivered for home use to an approved person, without payment of excise duty, where, inter alia, it is to be put by that person to a use qualifying for relief under s.9 of the Act. As explained in s.9(2) of the Act, the uses of hydrocarbon oil that qualify for relief under s.9 are all uses that do not consist in either the use of the hydrocarbon oil as fuel for any engine, motor or machinery, or the use of the hydrocarbon oil as heating fuel.

3.4 The Appellant only uses creosote for the pressure treatment of wood. The purpose of pressure treating wood is to force preservative chemicals into the wood, which extends the useful life of the wood. The Appellant does not use creosote as a fuel. It is agreed and accepted that the Appellant therefore put all of the creosote that it imported and was delivered during the periods referred to below to a "use qualifying for relief" within the meaning of section 9 of the Act at all material times.

3.5 Where the Respondents are authorised to give permission under s.9(1) of the Act vis-à-vis any hydrocarbon oil , but do not do so "for any reason", s.9(4) of the Act provides that they

shall repay to the taxpayer the amount of the excise duty paid on the oil, less any rebate allowed in respect of the duty, provided that they are satisfied that the oil has been put by an approved person to a use qualifying for relief under s.9 of the Act.

3.6 An "approved person" is a person "for the time being" approved in accordance with regulations made for any of the purposes of s.9(1) or 9(4) of the Act.

4. The Appellant's import of creosote and its status at various points

4.1 During the various periods discussed below, the Appellant imported and had delivered creosote for use in its business. HMRC refers to the period before 1 January 2021 as the "Earlier Period", the period from 1 January 2021 to 17 May 2021 as the "Disputed Period" and the period from 18 May 2021 as the "Later Period". 4.2 The Appellant purchased the creosote from suppliers in Germany and Denmark.

4.3 Prior to 1 January 2021, the Appellant received creosote from suppliers in other EU countries without declaration or payment of excise duty. The Respondents agreed to take no further action in relation to this period.

4.4 From 1 January 2021 onwards, the Appellant had declared the imports of creosote. Between 1 January 2021 and 17 May 2021, the Appellant had imported creosote and paid £931,152.73 in excise duty thereon. These appeals concern the Appellant's entitlement to repayment of this £931,152.73 of duty (the "Disputed Duty").

4.5 On 26 March 2021 the Appellant applied to the Respondents to become an "approved person" for the purposes of s.9 of the Act.

4.6 The Respondents issued the Appellant with a Certificate on 18 May 2021 which stated that the Appellant was: "Approved as a User of Mineral Oil for the purposes of section 9 of the Hydrocarbon Oil Duties Act for the descriptions of oil detailed on the enclosed schedule which forms part of this Registration Certificate." This had the effect that the Appellant became an "approved person" for the purposes of s.9 of the Act on 18 May 2021.

4.7 The Appellant also erroneously paid further amounts of excise duty in respect of imports made between 18 May and 10 June 2021. These amounts have been repaid and do not form part of these appeals.

**5. Appeal TC/2022/11496**

5.1 On 21 December 2021 the Appellant applied to the Respondents for repayment of the Disputed Duty (the "First Claim").

5.2 On 29 March 2022 the Respondents issued a decision letter and rejected the First Claim.

5.3 On 26 April 2022 the Appellant appealed against that rejection to the Tribunal. This is the appeal with reference TC/2022/11496.

**6. Appeal TC/2024/00472**

6.1 On 22 June 2023, the Respondents applied for permission to vary their Statement of Case in response to appeal TC/2022/11496 to state that the Appellant had not made the First Claim

within the time limit given by Regulation 9 of the Hydrocarbon Oil (Industrial Reliefs) Regulations 2002 (SI 2002/1471) (the "Regulations"). Insofar as relevant, the said Regulation 9 provides that "Claims by an approved repayment user for repayment of duty… must be made no later than 3 months after the period to which they relate, and that period must not be shorter than 2 months nor longer than 3 years…"

6.2 On 15 December 2023, the Appellant made an alternative claim for repayment of the Disputed Duty (the "Second Claim"). The Second Claim was expressed to be made in respect of the period 1 January 2021 to 30 November 2023 (i.e. 2 years and 11 months).

6.3 On 22 December 2023, the Respondents issued a decision letter that rejected the Second Claim.

6.4 On 19 January 2024, the Appellant appealed against that rejection to the Tribunal. This is the appeal with reference TC/2024/00472.

6.5 On 15 May 2024, the Tribunal directed that appeals TC/2022/11496 and TC/2024/00472 would proceed together and be heard by the same Tribunal.

6.6 On 12 July 2024, the Respondents served a Combined Statement of Case addressing the joined appeals.