Neutral Citation: [2026] UKFTT 1005 (TC)

Case Number: TC 09946

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

In Public by remote video hearing

Appeal references: TC/2023/00261
TC/2023/16435
TC/2023/16471
TC/2023/16472

*PROCEDURE – HMRC application for appeals to be case managed and heard together – application allowed in part*

**Heard on:** 01 June 2026
**Judgment date:** 02 July 2026

**Before**

**TRIBUNAL JUDGE NIGEL POPPLEWELL**

**Between**

**MUKARRAM SATTAR**
**THE KOMOTO GROUP LTD**
**MERINO LTD**

**Appellants**

**and**

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

**Respondents**

**Representation:**

For the Appellants: Michael Firth KC of counsel instructed by Arif Malinda Chartered Accountants

For the Respondents: Joshua Carey of counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs

## DECISION

## INTRODUCTION

1. This decision deals with an application made by HMRC on 12 March 2026 (“**the application**”) that four separate appeals should be case managed and heard together. The application is made under Rule 5(3)(b) of the Tribunal Procedure (First-Tier Tribunal) (Tax Chamber) Rules 2009 (as amended) (“**the Rules**”).

2. There are currently four appeals on foot (“**the appeals**”). Appeals TC/2023/00261 and TC/2023/16435 have been brought by Mr Mukarram Satar. I shall refer to the first of these as the “**pension appeal**” and the second of these as the “**income tax appeal**”, and to these two appeals together as “**the individual appeals**”. Appeal TC/2023/16471 has been brought by The Komoto Group Ltd. Appeal TC/2023/16472 has been brought by Merino Ltd. I shall refer to these companies as “**the companies**” and their appeals as “**the company appeals**”.

3. Simply stated, it is HMRC’s position that there is commonality of appellants and commonality of witnesses, along with a degree of overlap of the evidence, between the individual appeals and the company appeals. Having the appeals case managed and heard together will reduce the length of the overall hearing, be convenient for witnesses, generate overall cost savings, and will be no risk of prejudice to the appellants given the similar factual background of the appeals. In any event, the tribunal has already directed that the company appeals be case managed and heard together.

4. It is the appellants’ position that the company appeals should be case managed and heard separately from the individual appeals (which should also be case managed and heard separately from each other) on the basis that there is no commonality of appellants, nor are there overlapping factual or legal issues. The issues in the pension appeal are clearly wholly distinct from those in the income tax appeal and the company appeals. There is no evidence that the witnesses will be the same. There is a danger that the tribunal will need to turn its attention to multiple issues if there is a single hearing. Time will be saved if the matters are heard separately given that it is more likely that hearing windows for shorter periods will arise more readily than those for a single protracted hearing.

5. For the reasons given later in this decision, I have decided to reject the application in respect of the pension appeal. In my view it is fair and just that the pension appeal should be case managed and heard separately from the others. I have, however, decided to allow the application in respect of the income tax appeal which I consider should be case managed and heard together with the company appeals.

6. I am grateful to both Mr Firth and Mr Carey for their admirably concise skeleton arguments and their eloquent oral submissions.

7. I would also say now that I use the expression “join” or “joinder” later in this decision. I do so in a non-technical sense and as convenient shorthand for being case managed and heard together.

## THE LAW

### The Rules

8. Under Rule 2 (1), “The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly”.

9. Under Rule 5 (1), "Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure…".

10. Under Rule 5 (3) "In particular and without restricting the general powers in paragraphs (1) and (2), the Tribunal may by direction…(b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues…".

**Case law**

11. When considering how I should exercise my case management powers under Rule 5, the factors that I should consider were set out by the Upper Tribunal in *First Class Communications Ltd v HMRC* [2014] UKUT 244, namely:

> "[20] In Maharani Restaurant, Turner J referred to a number of factors that should properly be considered in deciding whether to exercise the power to consolidate separate proceedings. These include
>
> (1) Commonality of appellants;
>
> (2) Commonality of witnesses;
>
> (3) Degree of overlap of evidence;
>
> (4) Risk of prejudice to the appellants in relation to the presentation of similar fact evidence;
>
> (5) Avoiding the need for witnesses to give evidence more than once (and the risk that their evidence on the same point might be accepted in one appeal but not in another);
>
> (6) Cost of holding more than one appeal or single consolidated appeal;
>
> (7) Length of hearing required for separate appeals and for single consolidated appeal; and
>
> (8) Listing and delay".

12. Judge Mosedale has identified further factors in *Manhattan Systems Limited v HMRC* [2017] UKFTT 862 (TC). The parties are agreed that I should take these into account as well:

> "[27] By ruling that the Tribunal had not taken into account any irrelevant matter, the High Court also impliedly approved the fact that the Tribunal had considered:
>
> (e) Whether overall costs will be saved by consolidation;
>
> (f) Whether consolidation will increase complexity;
>
> (g) Risk of prejudice to parties to only some but not all of the consolidated appeals.
>
> [28] However, it seems to me that the above list is not necessarily an exhaustive list of what would be relevant and in this case, it was also relevant to consider:
>
> (h) Whether consolidation would make it difficult to expedite the de-registration appeal in the limited fashion which I have found justified in this case".

**SUBMISSIONS**

13. In summary Mr Carey submitted as follows:

(1) There is no presumption, as asserted by Mr Firth, that a taxpayer is entitled to a separate hearing to consider each appeal. However, he accepts that it is for HMRC to show why they should be case managed and heard together.

(2) The pension appeal is an outlier, but it still has commonality with the others in that Mr Sattar is the appellant as he is in the income tax appeal and is clearly involved in the company appeals as he is a participant in the companies.

(3) There is commonality of witnesses. HMRC will bring the same witnesses to provide evidence in all four appeals. Furthermore, as regards the income tax appeal and the company appeals, there is commonality of issues. It is inappropriate for these appeals to be heard separately given that there could be inconsistent findings of fact in those circumstances. The issue regarding the extraction of money from the companies by Mr Sattar provides commonality of issues between the income tax appeal and the company appeals. Similarly, the appellants challenge the discovery assessments made by HMRC in all three of those appeals and it would be appropriate for these challenges to be heard at the same time.

(4) Allegations of improper behaviour by HMRC officers have been made by the appellants. It is only right that that those officers are required to deal with those allegations only once rather than in multiple hearings.

(5) A single hearing which deals with all four appeals will reduce the administrative burden on the tribunal and the parties and is likely to lead to a time and thus cost saving when compared to two or three hearings. Similarly, given that the bundles are likely to be the same, there will be a considerable saving in preparation time and costs.

(6) The tribunal is likely to be able to list a single longer hearing dealing with all four appeals earlier than listing three separate appeals. So there will be no additional delay if the appeals are heard together.

(7) There is no meaningful increase in complexity if these appeals are case managed and heard together. The tribunal is well versed in dealing with multiple issues within a single hearing.

(8) There will be no prejudice to the parties. The evidence given by both HMRC and the appellants will not have an adverse impact on any of the parties should the appeals be heard together.

14. In summary Mr Firth submitted as follows:

(1) A taxpayer is entitled to have their appeal dealt with separately from any other appeal. It is for HMRC to make out why these appeals should be case managed and heard together.

(2) The issue in the pension appeal is whether a withdrawal of £455,000 from Mr Sattar's SIPP was an unauthorised payment and whether his application to discharge the unauthorised payment surcharge is out of time.

(3) This issue is wholly distinct from any of the issues arising in income tax appeal or the company appeals. There is no overlap or commonality of evidence or issues. HMRC have

issued a discovery assessment based on deliberate behaviour. There is a danger that, if the pension appeal is heard at the same time as the other appeals (in which deliberate behaviour in relation to discovery assessments has also been alleged) findings of deliberate behaviour in those appeals would influence the tribunal when reaching its decision on deliberate behaviour in the penalty appeal.

(4) Furthermore, the tribunal will have to consider the pension issues in the same hearing as GAAP issues in relation to the company appeals and to the income tax appeal. The tribunal might find it difficult to switch its mind from one to the other.

(5) The issues in the income tax appeal concern extraction of money from the companies which HMRC allege is taxable on Mr Sattar, and interest derived from independent investments made by Mr Sattar. There is clearly no commonality of issue or fact regarding the latter given that the companies are not the source of those funds. This is a wholly independent issue.

(6) Similarly, as far as the company appeals are concerned, the main issue concerns the deductibility of payments made and whether they were incurred wholly and exclusively in the course of the companies' respective businesses.

(7) This will require the tribunal to consider the application of UK GAAP and the impact of relevant Financial Reporting Standards. This may require expert evidence which relates only to the company appeals and is irrelevant as far as the pension appeal and the income tax appeal are concerned. Evidence given in respect of the pension appeal and the income tax appeal will shed no light on that issue.

(8) Furthermore the items of expenditure with which HMRC have evidenced a concern (see the statement of case for The Komoto Group Ltd) involve, inter alia, failure to provide evidence of legal fees incurred, the purchase of UK property, SDLT not paid in respect of the purchase of that property, repairs and maintenance, subcontractors, service charges, surveyors fees, and building improvements. All of these are specific to the company appeals and wholly irrelevant to the issues in the pension appeal and the income tax appeal. There is clearly no commonality of issues between those two appeals and the company appeals.

(9) Mr Carey has asserted that there are overlapping issues but has not shown that there is a genuine practical and realistic (rather than just a paper) risk that if the hearing of the appeals was separate, two differently constituted tribunals would reach inconsistent conclusions on the same facts.

(10) Nor has he demonstrated, with evidence, that the same HMRC witnesses will be required for all four appeals. The application has been made prematurely. Once we know what the witnesses are going to say, following exchange of witness statements, then it might be appropriate to consider the application.

(11) In his experience it is likely that the tribunal will be able to list shorter hearings at an earlier date than finding a hearing window for a single lengthy hearing. As far as he is concerned, it is likely that his diary would be able to accommodate shorter hearings more readily than a single longer hearing. The time spent on the pension appeal is likely to be the same whether it is heard separately or as part of a single hearing. The same is true with the income tax appeal.

(12) There is no evidence that costs will be saved if the matter is dealt with at a single hearing compared with three separate hearings.

## MY VIEW

15. As I have already said, I am grateful to Mr Carey and to Mr Firth for their comprehensive oral and written submissions which have been structured to take into account the relevant legal principles which guide me when considering the application in the context of the overriding objective to deal with cases fairly and justly.

16. I shall deal first with the pension appeal and then turn to the income tax appeal and the company appeals.

*The pension appeal*

17. Mr Carey accepts that this is an outlier. I agree with him. As far as this element of the application is concerned, I can see no justification for joining this appeal to either the income tax appeal or the company appeals and having it case managed and heard together with either.

18. The issues in the pension appeal are wholly different from those in the others. The only common feature which I can divine from the papers is the involvement of Mr Sattar, and HMRC's allegation that he has behaved deliberately in failing to account for tax on an unauthorised payment from his SIPP. Having said that, I see that Officer Gore signed the view of the matter letter on 19 August 2022 (which also dealt with issues relevant to the income tax assessment). She was clearly involved in both the income tax appeal and the company appeals so there is a certain amount of commonality through her.

19. The payment from the SIPP is wholly different from any payment made to him by the companies. It comes from a wholly different entity. I can see that Officer Gore is involved in all of the appeals, but I cannot see from the papers whether she was the assessing officer in the pension appeal or simply involved in the investigation. In either case, however, I cannot see that there will be any overlap of evidence given either by her or any other HMRC officer, between that given in the pension appeal and that given in the other appeals, save perhaps as regards Mr Sattar's behaviour to justify HMRC's assertion that he behaved deliberately, thus justifying elements of the discovery assessment.

20. Deliberate behaviour is something for which Mr Sattar is being impugned in a personal capacity as regards the income tax appeal and in a representative capacity (HMRC's view is that he was acting on behalf of the companies) in the company appeals.

21. My view is that Mr Sattar is entitled to have his behaviour as regards the submission (or failure to submit) an appropriate tax return relating to the unauthorised payment from the SIPP, considered separately from any behaviour regarding his personal income tax position or as a purported representative of the companies.

22. Although this was not submitted in such stark terms by Mr Firth, to my mind there is a real danger that should the pension appeal be joined with any of the other appeals, the trial judge might be subconsciously influenced by evidence of deliberate behaviour in respect of the issues in the income tax appeal and/or the company appeals when considering the evidence of deliberate behaviour in the pension appeal. And that subconscious influence could taint the judge's view of the evidence in the pension appeal. I would observe that in the company appeals (see for example [58] of the Komoto statement of case) that HMRC allege false invoicing. So the company appeals also involve allegations of, essentially, fraud which could further cross infect the judge's review of the facts.

23. This prejudice, or potential prejudice, outweighs any of the practical considerations which Mr Carey submits in favour of joinder. Even if there are common witnesses, the evidence they will give in the pension appeal is very different to that which will be given in the other appeals. There is no need for them to give evidence on the same topic more than once. They can attend remotely to reduce costs. I also agree with Mr Firth that it may be easier to find a short hearing window for the pension appeal which can be dealt with at an earlier date than a longer hearing for the four appeals if I were to find in favour of this application.

24. I am not persuaded by Mr Firth's somewhat (I think) tongue in cheek suggestion that tribunal judges are not able to deal with a number of matters within the same hearing, and that the trial judge might be slightly confused if he or she had to switch from considering the pension issues in the same umbrella hearing which deals with the income tax and company issues. As Mr Carey points out, judges are commonly called upon to deal with a number of issues within the same hearing, especially where there is extraction of funds from ostensibly related companies by participators therein, without apparent difficulty.

25. But I do agree with him that there are a number of issues which arise in the company appeals and in the income tax appeal which will be wholly irrelevant to the pension appeal (for example an examination of accounting principles). It is more appropriate that these are dealt with in separate hearings and not in conjunction with the pension appeal.

26. Finally, I would say that when listing the pension appeal, the tribunal would do well to list it to be heard by a judge and a member who has experience in pensions matters. That member would be of considerable assistance but might not be the appropriate person to assist in the income tax appeal or the company appeals. Maintaining separation of the pension appeal from the others would facilitate this listing.

27. So, for all these reasons, I reject HMRC's application that the pension appeal be case managed and heard at the same time as either the income tax appeal or the company appeals. It should be case managed and heard separately from the other appeals.

*The income tax appeal*

28. In contrast to the pension appeal, there are a number of significant elements of commonality, and overlap, between the income tax appeal, and the company appeals.

29. Firstly, as regards the evidence, it is clear from the documents that I have seen that Officer Feighan, who is identified as the discovering officer in the income tax appeal, was also responsible for issuing the original corporation tax assessments to the companies. These were then replaced by the discovery assessments which were issued by Officer Gore. Officer Gore had also been involved in the investigation into Mr Sattar's personal affairs. As we have seen, she was the officer who signed off the view of the matter letter in the pension appeal and was also involved in the investigation into Mr Sattar's income tax position (see [27] of the statement of case in the income tax appeal).

30. I have also seen documents which support Mr Carey's submission that the appellants are alleging improper behaviour by HMRC officers.

31. HMRC are alleging what is essentially fraud, as regards certain invoices in the company appeals, and deliberate behaviour by Mr Sattar on his own account as regards the income tax appeal and on behalf of the companies in the company appeals.

32. From an evidential perspective therefore, there is considerable overlap between the income tax appeal, and the company appeals. My view is that the evidence in relation to these appeals should be tested only once. There is a danger that if the income tax appeal was heard separately from the company appeals, then there could be inconsistent findings of fact relating to Mr Sattar's behaviour in those appeals. That is not in the interest of justice.

33. Secondly, and aligned with the commonality of evidence, is the commonality of issues. Mr Firth submits that the issues in income tax appeal are separate from and unrelated to the issues in the company appeals. I disagree. I accept that the receipt of interest from third party sources is a separate issue and is not ostensibly relevant to the company appeals. But the extraction of money or money's worth from the companies either as employment income or as repayment of loans (whether or not a director's loan) is a matter which is common to both the income tax appeal and the company appeals.

34. The appellant asserts that he was not a director of either company. HMRC (see [86]-[89] of the Komoto statement of case) take issue with this. Their position is that if he was not a formal director, then he was effectively a shadow director.

35. The appellant's involvement in the companies, too, is highly pertinent when it comes to a consideration of deliberate behaviour by the companies. As mentioned before, HMRC assert that the deliberate behaviour of the companies was through the human agency of Mr Sattar acting on their behalf.

36. So the status of Mr Sattar as regards the companies affects the income tax appeal (tax issues regarding a director's loan account or a participators loan account have a different tax consequence from those in relation to arm's length loan accounts) as well as the company appeals. His deliberate behaviour is common to the discovery assessments in both the income tax appeal and the company appeals.

37. Furthermore, if, as asserted by HMRC, the extractions by Mr Sattar to which he has been assessed in the income tax appeals comprise employment income, then there may well be deductibility issues as far as the companies are concerned. I cannot see that this has been raised, specifically, in the pleadings thus far, but it is a factor in favour of hearing the income tax appeal at the same time as the company appeals so that any tax deductibility to which the companies might be entitled if the extractions are employment income, can be dealt with at the same time as the taxability of the extractions in the hands of Mr Sattar.

38. It is commonplace for HMRC to deal with extractions from closely owned companies from both the participators point of view as well as that of the company. And HMRC often assess both parties accordingly. Trial judges, therefore, are commonly asked to consider the taxability of both the payer and the recipient, and although there are separate appeals, this invariably takes place at a single hearing. Judges have no difficulty in considering both elements at a single hearing. The trial judge will not be bamboozled in the slightest.

39. I can see no prejudice to Mr Sattar from the income tax appeal being joined to the company appeals. As regards deliberate behaviour, the issues are common to both. His evidence will be tested and it is only right that it is tested once. The same is true of the evidence given by the relevant HMRC officers. It would not be appropriate for there to be separate trials with the possibility of there being separate findings of fact regarding behaviour.

40. Nor can I see that there will be any substantial saving in cost or complexity should the income tax appeal be joined to the company appeals. It is inevitable that any considerations in

the income tax appeal regarding the extraction of funds will have to consider the position from the companies' perspective. Indeed, as I understand it, Mr Sattar's position in the income tax appeal and the company appeals is that the extractions were simply repayments of money that he had previously lent to the companies. A single hearing at which this is considered from his position (the income tax appeal) and the position of the companies (the company appeals) is highly advantageous.

41. If there is no joinder, the same issues might be canvassed twice, once in the income tax appeal and then again in the company appeals. As well as a risk of inconsistent findings of fact, there is likely to be additional cost should the matters be heard separately.

42. The issues concerning UK accounting standards will be the same whether or not the appeals are joined.

43. So unlike the pension appeal, I can see cost and complexity savings by joining the income tax appeal with the company appeals.

44. So weighing up the competing factors, and bearing in mind my obligation to deal with the issues fairly and justly, I have concluded that for the reasons set out above, it is fair and just, and in the interest of justice, to join the income tax appeal with the company appeals, such that all three appeals are case managed and heard together.

## DISPOSITION

45. Accordingly, I Direct that the income tax appeal will be case managed and heard at the same time as the company appeals. The pension appeal will be case managed and heard separately from those appeals.

46. The parties had helpfully provided draft directions for the future conduct of these appeals for my consideration before and at the hearing. In light of the foregoing decision, I further Direct that the parties shall seek to agree appropriate directions for the further conduct of these appeals, and if agreement cannot be reached within 28 days from the date of release of this decision, then either party may apply to the tribunal for appropriate directions.

## RIGHT TO APPLY FOR PERMISSION TO APPEAL

47. 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:**
**02 July 2026**