Neutral Citation: [2026] UKFTT 1206 (TC)

Case Number: TC 09989

FIRST-TIER TRIBUNAL
TAX CHAMBER

By remote video hearing

Appeal reference: TC/2024/00043

Reinstatement following automatic strike out – failure to comply with unless order – adviser default – responsibility for litigation – Denton/Martland principles – reinstatement refused

Heard on: 27 July 2026
Judgment date: 19 August 2026

Before

TRIBUNAL JUDGE GERAINT WILLIAMS

Between

SANJAYKUMAR VADERA

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mr Michael Firth KC of counsel, instructed by TT Law

For the Respondents: Mr Christopher Thompson-Jones litigator of HM Revenue and Customs' Solicitor's Office

DECISION

INTRODUCTION

1. With the consent of the parties, the form of the hearing was by way of video.

2. Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

3. This is the Tribunal's decision on an application by Mr Vadera ("the Appellant") for reinstatement of an appeal pursuant to Rule 8(5)(a) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ("the FTT Rules").

4. The substantive appeal concerns the Appellant's entitlement to repayment of stamp duty land tax ("SDLT") in the sum of approximately £2.8 million arising from his acquisition of Apartment 6.03, together with a storage unit and parking space, at 20 Grosvenor Square, London in December 2020. The merits of that appeal are not presently before the Tribunal.

5. The issue for determination is whether the appeal should be reinstated pursuant to Rule 8(5)(a) of the Tribunal Rules following its automatic strike out on 13 November 2025. The strike out occurred after the Appellant failed to comply with a direction requiring him to confirm whether he wished to continue with the appeal and, subsequently, an unless order warning that a failure to respond would result in automatic strike out.

PROCEDURAL BACKGROUND AND CHRONOLOGY

6. On 9 December 2020, the Appellant acquired Apartment 6.03, together with Storage Unit 2 and Car Parking Space 32, at 20 Grosvenor Square, London for consideration of £29,000,000.

7. On 11 December 2020, an SDLT return was submitted in respect of that transaction and SDLT of £4,248,750 was paid.

8. On 5 January 2023, Cornerstone Tax 2020 Limited ("Cornerstone"), acting on behalf of the Appellant, submitted a claim for overpayment relief. The claim sought repayment of SDLT of £2,809,250. The basis of the claim was that the transaction was not wholly residential for SDLT purposes. HMRC rejected the claim.

9. On 21 December 2023, a notice of appeal was lodged with the Tribunal. The notice of appeal was submitted by Cornerstone, who were identified as the Appellant's representatives.

10. At some stage thereafter, the appeal was stayed pending the determination of lead appeals concerning similar issues arising from properties within the same development. As a consequence, there was no significant procedural activity in the appeal for an extended period.

11. On 11 September 2024, administrators were appointed to Cornerstone. The Companies House records included within the hearing bundle record the appointment of administrators on that date.

12. On 4 September 2025, the Tribunal issued directions requiring the Appellant, by 18 September 2025, to confirm whether he wished to continue with the appeal. The direction further required that, if the appeal was to continue, the Appellant should provide fully particularised grounds of appeal together with up-to-date contact details or details of any new representative.

13. No response having been received, the Tribunal issued a further communication on 8 October 2025 reminding the Appellant that a response had not been received and requesting a reply within 14 days.

14. No response was received to that communication.

15. On 27 October 2025 the Tribunal issued an unless order. The order required the Appellant, by 10 November 2025, to confirm that he wished to proceed with the appeal. The order warned that failure to comply would result in the appeal being automatically struck out.

16. No response was received by the specified date.

17. On 13 November 2025 the Tribunal notified the parties that the appeal had been struck out pursuant to Rule 8(1) of the FTT Rules.

18. On 26 November 2025, the Appellant contacted the Tribunal, explained that he had only recently become aware of the relevant correspondence and confirmed that he wished to continue with the appeal.

19. On the same date the Appellant applied for reinstatement of the appeal pursuant to Rule 8(5)(a) of the FTT Rules.

20. By Notice of Objection dated 22 January 2026 HMRC opposed the application.

21. Directions were subsequently given for the determination of the reinstatement application. In accordance with those directions, the Appellant served a witness statement dated 27 April 2026. HMRC served written submissions in opposition to the application.

FINDINGS OF FACT

22. The findings set out below are based on the documentary evidence contained within the hearing bundle, the witness statement of Mr Vadera dated 27 April 2026 and his oral evidence at the hearing.

23. I found Mr Vadera to be a straightforward witness who answered questions directly and made concessions where appropriate. Where his evidence related to matters within his direct knowledge, I generally accept it. The principal disputes between the parties concern the significance of the facts rather than the facts themselves.

24. Following the submission of the notice of appeal in December 2023, responsibility for the conduct of the appeal rested principally with Cornerstone. Cornerstone had submitted both the overpayment relief claim and the notice of appeal on behalf of Mr Vadera. I accept his evidence that Cornerstone acted as the primary point of contact in relation to the appeal and that he expected communications concerning it to be managed through them.

25. I also accept Mr Vadera's evidence that, after the appeal was lodged, he had limited visibility of its progress. He described receiving little communication from Cornerstone and stated that matters appeared largely inactive. That evidence is consistent with the fact that the appeal had been stayed behind lead appeals.

26. Mr Vadera knew that the appeal remained extant. He accepted in cross-examination that he knew the appeal had not been determined and had not been withdrawn. He also accepted that the appeal concerned the recovery of approximately £2.8 million of SDLT.

27. I accept that Mr Vadera did not have detailed knowledge of any arrangements made following the administration. Nevertheless, from September 2024 onwards there is no evidence that he took any meaningful steps to ascertain what arrangements existed for the continued conduct of the appeal or who, if anyone, was acting on his behalf. By the time the strike-out came to his attention, he was aware that Cornerstone was no longer functioning as an effective representative.

28. There is no documentary evidence before the Tribunal demonstrating regular communication by Mr Vadera with Cornerstone, HMRC or the Tribunal concerning the progress of the appeal following Cornerstone's administration. Mr Vadera referred in oral

evidence to the possibility that enquiries had been made through his personal assistant and accepted that any such material had not been included in the evidence before the Tribunal.

29. From approximately April 2025 Mr Vadera was generally residing abroad. Whilst abroad, he continued to retain the property at 20 Grosvenor Square and visited the United Kingdom from time to time. In oral evidence he stated that he probably attended the London property only once or twice between April and November 2025.

30. The Tribunal's direction of 4 September 2025, the reminder dated 8 October 2025 and the unless order dated 27 October 2025 were all sent to the Grosvenor Square address.

31. I accept Mr Vadera's evidence that he did not in fact see any of those communications before the appeal was struck out. HMRC did not contend that he was actually aware of them and no evidence was produced demonstrating that the correspondence had come to his attention. I am therefore satisfied on the balance of probabilities that he did not receive notice of those communications in the sense of becoming aware of their contents.

32. I do not, however, find that the correspondence failed to reach the address to which it was sent. Rather, the position is that the communications were sent to the address held by the Tribunal but did not come to Mr Vadera's personal attention.

33. As regards arrangements for monitoring correspondence, Mr Vadera accepted that he did not arrange for post to be redirected after moving abroad. He accepted that he did not provide the Tribunal with an email address before November 2025 and that he expected communications relating to the appeal to be dealt with through Cornerstone. He also accepted that he did not put in place any alternative system for ensuring that correspondence relating to the appeal would be brought to his attention whilst he was living abroad.

34. I accept Mr Vadera's evidence that he did not expect to receive correspondence from the Tribunal during this period and that this expectation was influenced by the fact that the appeal had been inactive for a prolonged period and had been stayed behind lead cases.

35. I also accept that this expectation contributed to the absence of arrangements for monitoring correspondence. That expectation does not, however, alter the fact that no such arrangements were in place.

36. There is no evidence that Mr Vadera intended to abandon the appeal. On the contrary, I find that he wished throughout to pursue it. His evidence on that issue was clear and was not challenged.

37. There is no evidence before the Tribunal that Mr Vadera contacted the Tribunal regarding the appeal between the filing of the notice of appeal and the strike out.

38. I further accept that, once the strike out came to his attention, he acted promptly. The email sent to the Tribunal on 26 November 2025 confirmed that he wished to continue with the appeal and sought reinstatement. The application was therefore made without significant delay after he became aware of the position.

RELEVANT TRIBUNAL RULES

39. Rule 2(1) provides:

> "The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly."

40. Rule 2(2) provides that dealing with a case fairly and justly includes:

> "(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

> (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
>
> (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
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> (d) using any special expertise of the Tribunal effectively; and
>
> (e) avoiding delay, so far as compatible with proper consideration of the issues."

41. Rule 2(4) requires parties to help the Tribunal further the overriding objective and to co-operate with the Tribunal generally.

42. Rule 8(1) provides:

> "The proceedings, or any part of them, will automatically be struck out if the appellant has failed to comply with a direction which stated that failure by the appellant to comply with the direction would lead to the striking out of the proceedings or that part of them."

43. Rule 8(5)(a) provides:

> "The Tribunal may reinstate proceedings (or part) which have been struck out under paragraph (1) ..."

44. Rule 8(6) provides:

> "A party may apply for reinstatement under paragraph (5)(a) within 28 days after the date on which the Tribunal sent notification of the striking out to the party."

RELEVANT CASE LAW

45. The parties were agreed that the application should be determined by applying the approach described by the Upper Tribunal in *Martland v HMRC* [2018] UKUT 178 (TCC) ("*Martland*"), adopting the framework set out in *Denton v TH White Ltd* [2014] EWCA Civ 906 ("*Denton*"). Under that approach the Tribunal considers:

(a) the seriousness and significance of the breach;

(b) the reasons for the breach; and

(c) all the circumstances of the case.

46. In carrying out the third stage of the exercise, particular weight must be given to the need for litigation to be conducted efficiently and at proportionate cost and to compliance with rules, directions and orders.

47. Although *Martland* concerned an application for permission to make a late appeal, the same approach has subsequently been applied in cases concerning relief from sanctions and applications to reinstate proceedings following automatic strike out. The parties were agreed that it provides the appropriate analytical framework in the present case.

48. The parties also agreed that the breach of the unless order cannot be considered in isolation.

49. In *Khandanpour v Chambers* [2019] EWCA Civ 570 ("*Khandanpour*"), adopting the reasoning in *British Gas Trading Ltd v Oak Cash & Carry Ltd* [2016] EWCA Civ153, the Court of Appeal emphasised that an unless order does not stand on its own and that, in assessing the seriousness and significance of a breach of an unless order, it is necessary to consider the underlying breach which led to that order being made.

50. The same approach was applied by the Upper Tribunal in *Chappell v The Pensions Regulator* [2019] UKUT 0209 (TCC) ("*Chappell*"). The Tribunal must therefore consider not

only the Appellant's failure to comply with the unless order dated 27 October 2025 but also the earlier failures to respond to the Tribunal's direction of 4 September 2025 and subsequent reminder.

51. A central issue between the parties concerned the extent to which the Appellant can rely upon the collapse of Cornerstone and the consequent absence of representation.

52. The authorities establish that, in general, litigants remain responsible for the conduct of proceedings brought in their own name. In *HMRC v Katib* [2019] UKUT 0189 (TCC) ("*Katib*"), the Upper Tribunal emphasised that, in most cases, failings by a litigant's advisers should be treated as failings of the litigant himself and that the need for litigation to be conducted efficiently and for procedural requirements to be respected remains of particular importance.

53. Similar observations appear in Kotecha v HMRC *[2025] UKFTT 330 (TC) ("Kotecha")* and *Uddin v HMRC* [2023] UKUT 99 (TCC) ("*Uddin*"). In *Uddin*, the Upper Tribunal stressed that the Tribunal must examine not only the conduct of representatives but also the conduct of the taxpayer himself. In that case the Upper Tribunal regarded it as significant that the taxpayer had demonstrated only limited interest in monitoring proceedings and had failed to establish that he had done what a reasonable taxpayer in the circumstances would have done.

54. Those authorities do not establish an inflexible rule. However, they do emphasise that a party seeking relief on the basis of problems with representation must ordinarily explain what steps he himself took to monitor and protect his position.

55. The parties both relied upon *HMRC v BMW Shipping Agents* Limited [2021] UKUT 91 (TCC) *("BMW Shipping Agents")*, although for different purposes.

56. In that case the Upper Tribunal considered an application to reinstate proceedings after automatic strike out following non-compliance with directions and an unless order. Applying the *Martland* analysis, the Upper Tribunal accepted that the breaches were serious and significant but concluded that reinstatement was justified in light of the unusual circumstances that had led to the defaults. Particular emphasis was placed on the fact that important communications and reminders had failed to reach the representative and that the defaults arose from an unusual combination of events.

57. The decision confirms that even serious non-compliance does not inevitably lead to the refusal of reinstatement. Equally, it is clear from the reasoning of the Upper Tribunal that the outcome turned heavily on the particular facts of that case and on the nature of the explanation provided for the defaults.

58. The parties also made submissions concerning the merits of the underlying SDLT appeal. In particular, the Appellant relied upon the Tribunal's decision in *Raj Sehgal and Varsha Sehgal v HMRC* [2025] UKFTT 1439 (TC) ("*Sehgal*"), which concerned another property within the same development and similar issues concerning the SDLT treatment of storage facilities and associated property. The Appellant submitted that *Sehgal* demonstrated that the substantive appeal has a realistic prospect of success.

59. The starting point is the decision of the Supreme Court in *HRH Prince Abdulaziz Bin Mishal Bin Abdulaziz Al Saud v Apex Global Management Ltd and another* [2014] UKSC 64 ("*Global Torch*"*)*. Lord Neuberger observed that the strength of a party's substantive case is generally irrelevant when the Tribunal is considering procedural and case-management issues. The reason is obvious: tribunals should not ordinarily be required to conduct an assessment of the substantive merits whenever procedural sanctions are under consideration.

60. The authorities nevertheless recognise that the merits may have some limited relevance in exceptional cases. Thus, in *Martland*, the Upper Tribunal observed that the Tribunal may have regard to obvious strengths or weaknesses in a party's case when considering prejudice, provided that the exercise does not descend into a detailed determination of the substantive dispute.

61. Similarly, in *Chappell*, the Upper Tribunal cautioned against turning a case-management application into a hearing of the substantive appeal.

62. Accordingly, whilst the Tribunal may consider whether the appeal is obviously hopeless or obviously unanswerable, the present application is not the occasion for any detailed examination of the SDLT issues.

63. The parties also made submissions concerning the significance of the amount at stake.

64. In *Strauss v HMRC* [2025] UKFTT 91 (TC) ("*Strauss*"), Judge Sinfield observed that substantial financial consequences do not, by themselves, justify relief from a strike out. Were it otherwise, strike out would become ineffective in many substantial tax appeals. However, he also recognised that the amount at stake remains a relevant factor when considering whether the overall consequence of maintaining a strike out would be disproportionate.

65. That approach is consistent with the broader balancing exercise required by Martland. The potential prejudice arising from the loss of the appeal is relevant, but it is not determinative.

SUBMISSIONS

Appellant's submissions

66. The breach fell at the lower end of the scale of seriousness and significance when viewed in its proper context. The appeal had been stayed behind lead cases and, from the Appellant's perspective, nothing was expected to happen until those cases had been resolved. The direction issued on 4 September 2025 appeared without any explanation of what had occurred in the lead appeals, why the stay was no longer operating or why the Appellant was suddenly required to confirm whether he wished to continue with an appeal that had never been withdrawn.

67. The relevant breach was not a failure to exchange evidence, comply with hearing directions or take a step required to progress the appeal to trial. Rather, it was a failure to confirm an intention to continue with an existing appeal. There was never any suggestion that the Appellant no longer wished to pursue the appeal. The significance of the breach was therefore limited.

68. The September direction, reminder and unless order never came to the Appellant's attention. Although there were three pieces of correspondence, this was in substance a single failure extending over a relatively short period. The events that culminated in strike out occurred within a compressed period of approximately two months.

69. The explanation for the default lay in a combination of circumstances. The Appellant had moved abroad in April 2025, correspondence continued to be sent to the London address, and Cornerstone had ceased to function as the Appellant's representatives following its entry into administration. Correspondence relating to the appeal had previously been dealt with through Cornerstone and there was no reason to expect that substantive steps would suddenly be required in a stayed appeal.

70. Particular reliance was placed on *BMW Shipping Agents*. That decision confirmed that the Tribunal must consider not merely the fact of the breach but the surrounding circumstances and the proportionality of refusing relief. The present case was said to be stronger than *BMW Shipping Agents* because the appeal was stayed and the breach did not concern directions intended to progress proceedings to a hearing.

71. The substantive merits were also said to be relevant to the balancing exercise. Reliance was placed on Sehgal. The appeal concerned the same development and substantially the same issues. The Appellant's appeal was therefore neither speculative nor hopeless and there was a realistic possibility that the outcome would ultimately follow the determination of the appeal in *Sehgal*. If reinstated, the appeal would not immediately proceed to a substantive hearing and HMRC would therefore suffer little practical prejudice.

72. By contrast, refusal of reinstatement would permanently deprive the Appellant of the opportunity to pursue a claim worth approximately £2.8 million. Once the strike out came to his attention, the application for reinstatement was made promptly. Solicitors had since been instructed and there was no realistic prospect of future non-compliance. The overall consequence of maintaining the strike out would therefore be disproportionate to the nature of the procedural default.

HMRC's submissions

73. The application should be refused applying the three-stage approach in Martland. The breaches were serious and significant because the Tribunal must consider not only the breach of the unless order but also the earlier failures to comply with the direction of 4 September 2025 and the reminder of 8 October 2025. The existence of the stay did not diminish the obligation to comply once directions had been given.

74. The explanation for the defaults was inadequate. The Appellant knew that the appeal remained live and that approximately £2.8 million was at stake. Despite that, he had failed to ensure effective arrangements existed for receiving correspondence, monitoring the proceedings or replacing Cornerstone after it entered administration. Reliance was placed on *Katib*, *Kotecha* and *Uddin*.

75. *BMW Shipping Agents* was materially distinguishable because the difficulties in that case arose from unusual communication failures and administrative circumstances. In the present case the Tribunal's correspondence had been sent correctly and the failure lay in the absence of arrangements to ensure that it reached the Appellant.

76. The merits of the underlying SDLT appeal should carry little weight. Reliance was placed on *Global Torch* and *Chappell*. Whilst refusal of reinstatement would be prejudicial to the Appellant, that was the ordinary consequence of strike out and did not outweigh the importance of compliance with Tribunal directions.

77. Looking at all the circumstances, the Appellant had demonstrated no more than a limited interest in monitoring a substantial ongoing appeal and that the balance fell against reinstatement.

DISCUSSION

78. The parties agree that the application falls to be determined by applying the three-stage approach described in *Martland*. I therefore consider, in turn, the seriousness and significance of the breach, the reasons for that breach and all the circumstances of the case.

Seriousness and significance of the breach

79. The Appellant submitted that the breach should be viewed as a relatively minor procedural failure consisting of a failure to confirm an intention to continue with an appeal that had never been withdrawn. HMRC submitted that the Tribunal must look not only at the breach of the unless order but also the antecedent failures which led to it.

80. I accept HMRC's submission.

81. The Appellant failed to respond to the Tribunal's direction of 4 September 2025. He failed to respond to the reminder of 8 October 2025. He then failed to comply with the unless order

of 27 October 2025. The relevant breach is not therefore a single isolated omission but a sequence of failures culminating in automatic strike out.

82. I accept that the breach must be considered in context. The appeal had been stayed for a substantial period. The September direction did not require disclosure, witness evidence or preparation for a substantive hearing. No hearing date was lost and no trial timetable was disrupted.

83. I also accept that the Appellant did not deliberately ignore the Tribunal's correspondence. I have found that the relevant documents never came to his attention.

84. Nevertheless, the Tribunal issued a direction, a reminder and an unless order, all of which went unanswered. The Tribunal was therefore unable to ascertain whether the appeal remained active and was ultimately required to apply the consequence expressly identified in the unless order.

85. In those circumstances I therefore conclude that, viewed in the round, the breach was serious and significant, although not at the highest end of the scale.

Reasons for the breach

86. I accept that the Appellant did not become aware of the Tribunal's direction, reminder or unless order before the appeal was struck out.

87. That finding, however, does not answer the real question. The issue is not merely why the correspondence was not read. The issue is why the correspondence failed to reach the Appellant's attention at all.

88. The Appellant relies on three matters: the appeal had been stayed for a prolonged period, he was residing abroad and Cornerstone had entered administration.

89. Those matters explain why the correspondence did not come to his personal attention. They do not, however, satisfactorily explain the absence of any effective arrangements for monitoring a substantial piece of ongoing litigation.

90. Several findings are particularly significant. First, the Appellant knew that the appeal remained live. Secondly, he knew that approximately £2.8 million was at stake. Thirdly, he knew that Cornerstone had entered administration in September 2024. Fourthly, no replacement representative was instructed during the period that followed. Finally, there is no evidence of any systematic attempt to monitor the appeal, ensure that Tribunal correspondence would be received or establish who was responsible for conducting the proceedings following Cornerstone's administration.

91. The significance of Cornerstone's administration should not be understated. Once Cornerstone ceased functioning as an effective representative, a reasonable litigant would have appreciated that the appeal required active attention. Yet more than a year elapsed between the administration and the strike out. During that period there is no evidence of any meaningful engagement with the progress of the appeal.

92. The explanation provided does not satisfactorily explain the failure either to replace Cornerstone or to ascertain what arrangements, if any, existed for the continued conduct of the appeal following its administration. That omission is significant given both the value of the appeal and the period of more than a year which elapsed before the strike out occurred.

93. I recognise that the appeal had been stayed and that the Appellant complains that the September 2025 direction did not explain why further action was required. However, a stay does not suspend the litigant's responsibility for the proceedings. If clarification of the direction

was required, the appropriate course was to respond to it or seek further information from the Tribunal.

94. A reasonable litigant pursuing a claim worth approximately £2.8 million would, in my judgment, have taken steps to ascertain who was responsible for the conduct of the appeal following Cornerstone's administration. A reasonable litigant would also have ensured that the Tribunal possessed effective contact details and that correspondence concerning the proceedings would be brought to his attention.

95. I do not regard *BMW Shipping Agents* as providing substantial assistance to the Appellant. The reasoning in that case turned heavily upon the particular circumstances which led to the representative not receiving important communications sent by the Tribunal. Here, by contrast, the correspondence was sent to the address held for the Appellant and the difficulty lies not in the communications themselves but in the absence of satisfactory arrangements for monitoring the appeal after Cornerstone had ceased to function as an effective representative.

96. Ultimately, the explanation advanced explains why the correspondence was not read. It does not satisfactorily explain why no adequate arrangements existed to protect and monitor a live appeal after Cornerstone had ceased acting.

97. In short, the question is not whether the Appellant deliberately failed to comply with the Tribunal's directions. I have found that he did not. The question is whether he took reasonable steps to ensure that a substantial and ongoing appeal was properly monitored. In my judgment he did not.

98. I therefore conclude that the reasons for the breach are weak and weigh materially against reinstatement.

ALL THE CIRCUMSTANCES OF THE CASE

99. I turn finally to consider all the circumstances of the case.

100. Several factors favour reinstatement:

(1) The breach was not deliberate.

(2) The Appellant acted promptly once the strike out came to his attention.

(3) No hearing date was lost.

(4) The appeal had been stayed for a substantial period.

101. I also accept that refusal of reinstatement will cause significant prejudice to the Appellant. The consequence is that he will lose the opportunity to pursue a claim said to be worth approximately £2.8 million. That is plainly a serious consequence.

102. I further accept that the Appellant acted promptly once the strike out came to his attention. However, prompt action after discovery of the consequences of default does not explain or excuse the prolonged absence of reasonable arrangements for monitoring the appeal during the preceding period.

103. However, the seriousness of the consequence cannot determine the outcome. If it did, strike out would rarely be effective in substantial tax appeals. In every case involving a large amount of tax, the taxpayer could point to the financial consequences of the sanction. The authorities make clear that this cannot by itself justify relief.

104. I also take into account the prejudice to HMRC and the wider interests of the administration of justice. HMRC are entitled to expect compliance with Tribunal directions and orders. There is also a wider public interest in ensuring compliance with those directions and in the efficient conduct of litigation. Reinstatement would have the effect that proceedings

continue notwithstanding serious procedural defaults and notwithstanding the Appellant's failure over an extended period to take reasonable steps to monitor or progress the appeal.

105. Whilst the prejudice to HMRC is not of the same magnitude as the prejudice which refusal would cause the Appellant, it forms part of the wider context in which the balancing exercise must be carried out.

106. The question is whether, having regard to all the circumstances, reinstatement is justified.

107. The strongest factor relied upon by the Appellant is the prejudice he will suffer if the strike out remains in place. The strongest factor relied upon by HMRC is the absence of a satisfactory explanation for the procedural failures. In my judgment, the latter carries greater weight.

108. The Appellant did not deliberately abandon the appeal. Nor do I doubt that he wished to pursue it throughout. However, wishing to pursue litigation is not the same thing as taking reasonable steps to prosecute it.

109. The evidence demonstrates that, after Cornerstone entered administration, the Appellant took no effective steps to ensure that the appeal was properly monitored or managed. The appeal remained active. The amount at stake remained substantial. Yet no replacement representative was instructed, no effective communication arrangements were established and no meaningful oversight of the proceedings was maintained.

110. This was not a case in which a litigant was deprived of the opportunity to comply by some unforeseeable external event. Rather, it was a case in which a substantial appeal was effectively left unattended for a prolonged period. The Appellant effectively assumed that the appeal would simply remain dormant indefinitely.

111. I have considered the parties' submissions regarding the merits of the substantive SDLT appeal and the relevance of *Sehgal*. The Appellant relies on *Sehgal* because that decision concerned another property within the same development and involved similar issues concerning the SDLT treatment of associated facilities and ancillary property. The Appellant therefore submits that the present appeal has a realistic prospect of success and should not be regarded as speculative or hopeless.

112. I accept that *Sehgal* demonstrates that the Appellant's appeal cannot presently be characterised as hopeless. Equally, *Sehgal* is not determinative of the present appeal. The substantive merits are not before me. Nor am I in a position on this application to determine the extent to which the factual and legal issues are identical. Consistently with *Global Torch*, *Martland* and *Chappell*, I therefore attach only limited weight to the underlying merits in determining the present procedural application.

113. The appeal appears arguable. However, it is neither obviously hopeless nor so clearly meritorious that its prospects should materially influence the outcome of this application.

114. Standing back and considering all the circumstances, I am not satisfied that reinstatement would be the fair and proportionate outcome.

115. The consequences of refusing reinstatement are undoubtedly severe. Nevertheless, those consequences do not outweigh the seriousness of the procedural failures, the absence of a satisfactory explanation for them and the need to give proper effect to the Tribunal's directions and orders.

116. I therefore conclude that the balance falls against reinstatement.

Conclusion

117. For the reasons set out above, I conclude that the Appellant's failures to comply with the Tribunal's direction, reminder and unless order constituted a serious and significant breach.

118. I accept that the breach was not deliberate and that the Appellant acted promptly once the strike out came to his attention. However, I am not satisfied that he has provided a satisfactory explanation for the defaults.

119. In particular, although the explanation advanced explains why the relevant correspondence was not read, it does not satisfactorily explain the absence of reasonable arrangements to monitor a live appeal involving a claim of approximately £2.8 million after Cornerstone had entered administration.

120. Having considered all the circumstances of the case and giving particular weight to the importance of compliance with Tribunal directions and the proper conduct of litigation, I am not persuaded that reinstatement is justified.

121. The application for reinstatement is therefore refused.

Right to apply for permission to appeal

122. 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:
19 August 2026