



CL-2018-000297, CL-2018-000404, CL-2018-000590, CL-2019-000487
and CL-2020-000369

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

BEFORE THE HON. MR JUSTICE ANDREW BAKER
2 March 2021
(in public by remote hearing conducted via Microsoft teams)

BETWEEN:

SKATTEFORVALTNINGEN
(the Danish Customs and Tax Administration)

Claimant

-and-

**SOLO CAPITAL PARTNERS LLP (in special administration) &
OTHERS**

Defendants

REVENUE RULE TRIAL CONFIDENTIALITY ORDER

UPON there being five sets of claims with numbers CL-2018-000297 (the "**First Claim**"), CL-2018-000404 (the "**Second Claim**"), CL-2018-000590 (the "**Third Claim**"), CL-2019-000487 (the "**Fourth Claim**"), CL-2020-000369 (the "**Fifth Claim**") which were consolidated by the Orders of Mr Justice Jacobs dated 27 June 2018, Mrs Justice Cockerill dated 12 October 2018, Mr Justice Andrew Baker dated 11 May 2020 and Mr Justice Andrew Baker dated 25 January 2021 (the "**Consolidated Proceedings**") involving numerous parties (the "**Parties**" and, each, a "**Party**")

AND UPON the Court giving directions for the Revenue Rule Trial to be listed for the Hilary term of 2021 pursuant to the Order of Mr Justice Andrew Baker dated 16 July 2020 (the “**July 2020 CMC Order**”)

AND UPON Mr Justice Andrew Baker making the US Confidentiality Order dated 19 November 2020, the IRS Confidentiality Order, and the IRBM Confidentiality Order dated 14 December 2020, and Mr Justice Foxton making the BMF Confidentiality Order dated 29 January 2021, each of which provides for the documents covered by such orders (together the “**Confidential Documents**”) and any information derived from the Confidential Documents of which such Party or Associated Person (as defined in each Confidentiality Order) is not aware from any other non-confidential source (the “**Confidential Information**”, together with the Confidential Documents, the “**Confidential Material**”) to be used only in accordance with the terms of the Confidentiality Orders

AND UPON the aforementioned Confidentiality Orders regulating the use and disclosure of the Confidential Material to which it applies at any hearings in the Consolidated Proceedings (other than Trials) by any Party or (in the case of the IRBM Confidentiality Order) any party other than ED&F Man Capital Markets Ltd and Lindisfarne Partners LLP (each, an “**IRBM Relevant Party**”)

AND UPON the Claimant having given disclosure to the Defendants in accordance with the terms of the US Confidentiality Order, the IRS Confidentiality Order, the IRBM Confidentiality Order, and the BMF Confidentiality Order

AND UPON the Defendants having identified or identifying that they wish to rely upon certain of the Confidential Material for the purposes of the Revenue Rule Trial

AND UPON the Claimant’s application dated 19 February 2021 for an order regulating the use of the Confidential Material at the Revenue Rule Trial (the “**Revenue Rule Confidentiality Application**”)

AND UPON the Claimant having filed under seal a confidential exhibit to the Seventeenth Witness Statement of Alan Sheeley, and having filed an updated version on 26 February 2021, to identify the confidential documents that are the subject of the Revenue Rule Confidentiality Application (the “**IRS Confidential Exhibit**”), as explained in a schedule (the “**IRS Confidential Schedule**”).

AND UPON the Confidentiality Orders regulating the use of the Confidential Materials (including the documents in the IRS Confidential Exhibit) at the hearing of the Revenue Rule Confidentiality Application

AND UPON hearing the submissions of counsel for the Claimant, Counsel for the Sanjay Shah Defendants, DWF Defendants, Messrs Knott and Hoogewerf and Acupay, at a Pre-Trial Review on 2 March 2021 (the “**PTR**”)

AND UPON the Court ordering at the PTR on 2 March 2021 that the Defendants which filed Revenue Rule Submissions pursuant to paragraph 3 of the July 2020 CMC Order shall have liberty to file and serve written submissions replying to the Claimant’s Revenue Rule Submissions by 4pm on 9 March 2021

AND UPON the Court being satisfied that the order below is necessary in the interests of justice.

IT IS ORDERED THAT:

1. Unless otherwise ordered at the hearing provided for by paragraph 4 below, no Confidential Material is to be included in the trial bundle for the Revenue Rule Trial or is to be referred to at the Revenue Rule Trial.
2. The Parties shall seek to agree the Confidential Material which would be included in the Revenue Rule Trial bundle if the Court ordered a Confidential Bundle be available for the hearing:
 - a) The Defendants shall use best endeavours to identify any Confidential Material they wish to include in a Confidential Bundle by 4pm on Friday 5 March 2021 and in any case shall

identify such Confidential Material for inclusion in a Confidential Bundle by 4pm on 9 March 2021;

- b) The Claimant shall provide any comments on any such documents proposed for inclusion in a Confidential Bundle by 4pm on Friday 12 March 2021;
 - c) The parties shall attempt to resolve any disputes between them as to documents to be included in the Confidential Bundle by 4pm on Tuesday 16 March 2021.
3. The parties have liberty to apply to the Court for permission for the Confidential Bundle to be used for the purposes of the Revenue Rule Trial, and for directions in relation to its use at the Revenue Rule Trial.
 4. Any applications under paragraph 3 above relating to the use of Confidential Material at the Revenue Rule Trial shall be listed to be heard by Mr Justice Andrew Baker, at a half day hearing to take place on Friday 19 March 2021. Subject to further order, such hearing shall take place in private pursuant to CPR r. 39.2(3)(a), (c) and (g) and, pursuant to section 11 of the Contempt of Court Act 1981, there shall be no reporting of the content of Confidential Material referred to at such hearing. No party shall be required to issue any application notice or file or serve any skeleton argument for the hearing.
 5. The parties shall notify the listing office by no later than 1pm on Wednesday 17 March 2021 if the hearing provided for by paragraph 4 above is not required.
 6. Pursuant to CPR r.5.4C(2), r.5.4C(4)(c), r.5.4C(d), r.5.4C(6) and r.3.1(2)(m):
 - a) The IRS Confidential Exhibit shall be treated as having been filed at Court under seal and shall remain sealed and held with the Court office on the terms of this Order;
 - b) Where any Party (or, in the case of the IRBM Confidential Material, any IRBM Relevant Party) wishes to include reference to the content of any Confidential Material in a document to be filed or served for the purposes of the Revenue Rule Trial, such Party shall:

- i) prepare and file at Court a redacted version of such document(s), which does not reveal or disclose that content;
 - ii) in respect of the IRS Confidential Material included in the IRS Confidential Exhibit prepare an unredacted version of the relevant document(s) clearly marked as “confidential” and highlighting in yellow the IRS Confidential Material to be served on any other Party and to be filed with the Clerk to Mr Justice Andrew Baker;
 - iii) in respect of any other Confidential Material, prepare an unredacted version of the relevant document(s) clearly marked as “confidential” to be served on any other Party (or IRBM Relevant Party as appropriate) that has signed the schedule to the US, IRS ,IRBM or BMF Confidential Schedule as appropriate and to be filed with the Clerk to Mr Justice Andrew Baker.
 - c) Any documents containing Confidential Material (other than the IRS Confidential Material included in the IRS Confidential Exhibit) shall only be included in confidential hard copy or electronic bundles for the Revenue Rule Trial with access restricted to persons covered by paragraph 4(c) of the US Confidentiality Order and paragraphs 4(b) of the IRS,IRBM, and BMF Confidentiality Orders as appropriate.
 - d) Any non-party wishing to obtain a copy of any of the documents referred to in paragraphs 2 and 6a)-c) above must file an application notice in accordance with CPR Part 23 and serve it on the Claimant via its solicitors, Pinsent Masons, giving at least 14 days’ notice of any such application.
7. The IRS Confidential Exhibit and the IRS Confidential Schedule shall be included in a non-confidential bundle for the PTR:
- a) to which all Parties and their representatives have unrestricted access;

b) with Confidential Material covered by the IRS Confidentiality Order highlighted in yellow and the relevant pages stamped on their face "CONFIDENTIAL".

8. Costs in the case.