

Customs' ability to amend their assessments

In this case the taxpayers were three companies in a VAT group and most of their supplies were exempt. In order to recover input tax on large purchases they entered into a group exit scheme. Customs considered that the returns submitted by the taxpayers were incorrect and made VAT assessments. Customs should have made the assessments partly on output tax grounds and partly on input tax grounds but in fact they made the assessments, in error, solely on input tax grounds. Customs accepted that the assessments had been made partly on the wrong basis and issued amended assessments. They applied to the Tribunal to make further adjustments in particular to introduce undeclared output tax that had not previously been part of assessments. The tribunal accepted Customs' submission.

The High Court allowed the taxpayers' appeal holding that the Tribunal did not have the power to allow such amendments to the assessments and Customs ought to have issued fresh assessments which would have been out of time.

The Court of Appeal allowed Customs' appeal, holding that Customs and the Tribunal could, where they decided to accept additional input tax was deductible, deduct under-declared output tax in respect of the same transactions as formed the basis of the assessment, which had not previously been taken into account.