

**ALL EYES ON THE 16<sup>th</sup> NOVEMBER UPPER TRIBUNAL HEARING****ASSISTING TRADERS IN CRIMINAL AND CIVIL CASES**

**Liban Ahmed**  
Director

**Ipswich Office**

9 Lower Brook Street  
Ipswich  
IP4 1AG

**Tel: 0844 826 7695**

**liban.ahmed**  
**@ctmltd.com**

Liban worked for HM Revenue & Customs for 20 years, predominately in MTIC investigations, before being recruited by **KPMG** as an MTIC specialist. He formed CTM in 2005 and now manages all First Tier Tribunal and Upper Tribunal appeals.

**Next Edition:**

The 16<sup>th</sup> Nov  
Result/

Other news

**A lifeline to traders who have already lost in Tribunal**

The Upper Tribunal is to hear oral submissions on 16 November 2011 from traders who lost in Tribunal, but were stood over pending the outcome of the Mobilx appeal. This relates to those that were found to have had actual knowledge and those who “should have known”.

As you will be well aware, the Mobilx appeal failed as it was out of time and there has been nothing else for traders to be stood behind.

A special hearing has been convened in London in front of Judge Bishopp to hear arguments that relate to references to the European Court of Justice (“ECJ”) by Hungarian and Bulgarian companies. It will be argued by traders that the “connected with” point will be heard on by the ECJ as early as this year and that it goes to the heart of the scope of Kittel. HMRC are clearly objecting to this and have instructed their two leading barristers to oppose such an Application.

If the traders lose, and the Tribunal finds that they should not be stood over behind the ECJ references, then it will be the end of the road for many who lost in Tribunal and did not get permission to appeal.

CTM is representing a trader at this hearing and will be able to provide more details after its conclusion.

This Tribunal hearing does not, at present, affect those who are yet to go to trial; however, if the Tribunal agrees that the ECJ case is relevant, and the outcome of that ECJ hearing is favourable, it may have a dramatic effect on all appeals. Particularly so if the ECJ finds that a trader can only be denied its input tax if it purchased directly from the missing/defaulting trader.

Counsel has met with the Bulgarian authorities in order to discover further facts regarding the case and it appears that there is a high chance that the hearing on 16 November will be a success.

If you would like to know further details about this hearing and the Bulgarian cases, please feel free to contact us.