

**HMRC BEGINNING TO STRUGGLE IN TRIBUNAL AS
COURT OF APPEAL JUDGEMENT STARTS TO BITE**

CTM - ASSISTING TRADERS IN CRIMINAL AND CIVIL CASES



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Liban worked for HM Revenue & Customs for 20 years, predominately in MTIC investigations, before being recruited by **KPMG**. He formed CTM in 2005 and now manages all Tribunal and High Court appeals.

Next Edition:

More analysis of decisions.

Mobile phone and alcohol test kit traders succeed in Tribunal Appeals

Masstech Limited and European Telecom cruised to victory recently in their Tribunal appeals; the latter worth £8.7 million.

It is clear that the Tribunal's are no longer concerned with the trading styles of a typical electronics wholesaler, or minor irregularities, and are focusing on the circumstances of the supply. If fraud is found in a supply chain, the question is, whether there is another reasonable explanation for that supply, other than fraud. We previously noted that it is now more difficult for HMRC to succeed and this is borne out by these two decisions.

Masstech was successful, even though very little preparation had gone into its case, and only a 2 page witness statement was in place 2 weeks before the trial commenced. We don't recommend this at all and it is a high risk gamble, but, nonetheless, this shows that those with little funding, still have a chance if they can afford to be represented at trial and legal arguments put forward.

European Telecom had been informed time and time again that fraud was in its supply chain, even when it purchased from an authorised distributor. The Tribunal simply asked itself the question that, when it was supplied mobile phones in large quantities, could there have been another reasonable explanation other than fraud. It found that, without evidence of being part of the fraudulent ring, or evidence to show that the trader knew it was being controlled by fraudsters, there was another explanation.

The most important aspect of European Telecom was that the Tribunal rejected the expert evidence of KPMG and found it completely irrelevant and factually misleading. This is excellent news, although probably as a result of some good cross examination by Michael Patchett-Joyce.

We will not get too carried away with ourselves based on 2 successes, but it is a clear signal that HMRC will not have it all their own way and, contrary to what many believe, the Tribunal's are not biased against all traders.

If you have any questions about these cases, please feel free to call us.