HMRC - VATSC52000 - Grants: Hope In The Community Ltd

Court Reference: [2012] UKFTT 498

This appeal followed a refusal by HMRC to repay a voluntary disclosure reclaiming output tax accounted for on payments that were claimed to be outside the scope grants.

The organisation’s aims and objectives were stated in its literature as the provision of “an umbrella of support for faith and voluntary sector groups seeking to regenerate the communities which they serve”.

The appeal principally concerned four projects including payments related to feasibility studies about regeneration on behalf of the South East England Development Agency (SEEDA) and also management fees on behalf of South East England Faiths’ Forum (SEEFF)

Hope in the Community also worked with other voluntary groups regarding social and economic issues which adversely affected communities and the well-being of their residents. It was funded by the ‘Championing Neighbourhoods Project’ which was in turn supported by the ‘Giving Real Opportunities for Work‘(GROW) programme through a European Regional Development Funding (ERDF) initiative. The project was administered by SEEDA who was required to commit itself to expenditure out of its own funds. The cost was then claimed back from the GROW programme, which was paid out of grant funding received from ERDF.

The aim was to encourage and enable local residents to establish projects designed to improve local regeneration, employment opportunities and cohesion within community neighbourhoods. The services Hope in the Community provided were assisting other groups in developing a management framework to record and collate information regarding the project, the production of a website and the holding of meetings and conferences.

HMRC considered the payments were in respect of taxable supplies, for example where Hope in the Community was helping the funders fulfil their objectives. At para 41, Mr Mathias who appeared on behalf of the appellant summarised various tests he thought should be applied to any situation to determine whether a payment was a grant or consideration for a supply.

The decision turned ‘on a close examination of the agreement or arrangement between the Appellant and the funder in each of the projects’ (para 65). In finding that the payments were consideration for a supply, the judge found the following factors to be relevant in para 66 - 68:

the appellant was not able to show that the relationship between it and the funder was one of informal optional cooperation not giving rise to any transaction capable of recognition as a supply

the terminology and the terms and conditions embodied in the agreements are indicative only of the true legal nature of payments made to the appellant

the appellant’s modus operandi appears to have been to undertake outsourced activities on behalf of the funder organisations rather than carrying out its own charitable aims and objectives with the assistance of independent unconditional gratuitous payments

the fact that the general nature of the projects may have complimented the appellant’s declared charitable objectives is not relevant in determining whether there has been a supply in consideration of the payments made

the commercial activity of the appellant and the number of projects undertaken would have been significantly curtailed in the event of a withdrawal or reduction in grant funding. The appellant’s methodology appears to have been to undertake only those projects where its applications for grants or gratuitous payments were successful

grants which were part of a mechanism whereby the Appellant’s activities were promoted and generally for the direct, or indirect, benefit of the funder

the payments were not made casually, without commitment or as acts of benevolence but as part of specific schemes whereby the funder and the appellant collectively intended to carry out specified aims and objectives, albeit charitable in nature

the payments were made either as a condition of, or in expectation of, services rendered by the appellant

it is clear from both the evidence and the appellant’s own submissions that the appellant would not have committed itself to certain projects without a clear statement of intent and financial support from the funder.

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