

Steadfast Manufacturing & Storage Limited v HMRC Repairs & Maintenance - Case Law Update

17 August 2020
Page 1 of 3

E³ Consulting reviews the recently published case decision in *Steadfast Manufacturing & Storage Limited v Commissioners for HMRC [2020] UKFTT 0286 (TC)* published at the beginning of July 2020.



The case deals with the perennial debate of capital vs revenue expenditure allocation - with 100% tax relief available for eligible repairs as a revenue taxable deduction, it is unsurprising that HMRC sought to scrutinise this claim.

Background

Steadfast Manufacturing & Storage Limited (hereinafter SMSL) appealed a closure notice issued by HMRC, resulting in a revenue amendment to their accounting period ending 31 October 2015, and a consequential amendment to the previous period, for a total of £14,918.

SMSL had previously claimed a revenue deduction for works in the order of £74,000 for the repair of a vehicle yard, on the basis that the works amounted to a repair in nature and thus were eligible as a revenue expense.

SMSL had previously repaired the yard twice a year, patching the surface with gravel. Although health and safety concerns had been raised with regards to this having become a less effective method of repair, with their forklift truck tyres digging into the surface, making it difficult to load and unload lorries.

HMRC disallowed the original amounts and reallocated the expenditure, with the view that the works amounted to the replacement of the yard, thus were capital in nature.

Key Issues

HMRC contended that the ‘scale and importance’ of the works were sufficient to be capital in nature; as well as that the ‘extent and permanence’ preserved part of the fixed capital of the business, essential for trade to continue.

Steadfast Manufacturing & Storage Limited v HMRC Repairs & Maintenance - Case Law Update

17 August 2020
Page 2 of 3

Additionally, HMRC submitted that SMSL would not now need to repair the surface for potentially twenty years. Instead they could have continued to patch repair the surface with gravel.

HMRC argued that these three points created an ‘enduring advantage’ for the appellant, thus the expenditure should be considered capital.

Furthermore, due to the yard not having been resurfaced for some time, before the site had been acquired by SMSL, the surface was in poor condition, and in places had grown a significant amount of weeds. So much so, that from overhead photographs, in places, the surface appeared green rather than paved. This led HMRC to submit that the works had increased the usable area available to SMSL, by concreting over large patches of grass.

HMRC also argued that works were described by the builders estimate as “new car park and wagon turn around area” and thus were new capital works. Moreover, the increase in functionality of the yard - increasing the load bearing capacity and adding a drainage channel - amounted to an improvement.

Decision

Judge Anne Fairpo found that “the works restored the yard to its original state and did not bring something new into existence” - there had been no improvement to the yard compared to its original condition.

HMRC’s reliance on case law relating to the scale and importance of the works undertaken was misplaced, as the position in the case of *Phillips v Whieldon Sanitary Potteries Ltd* had been different. The extent to which the works had replaced part of the yard surfacing was not enough to be viewed in its entirety.

It was also found that a reduction in the need for future repairs does not alone amount to making expenditure capital. In fact, it was inevitable that this was the result of repairing the yard properly, rather than continuing with more regular patch repairs to the surface.

SMSL’s evidence was deemed clear in relation to the ‘grassy areas’, considered by HMRC to have been used to extend the useable surface area. The deterioration of the original surface had caused the appearance to change, the works therefore had only brought the yard back to its previous standard.

Steadfast Manufacturing & Storage Limited v HMRC Repairs & Maintenance - Case Law Update

17 August 2020
Page 3 of 3

Finally, there could be no evidence found on the facts given that the load bearing capacity of the yard had increased, or that the drainage channel had made any substantial difference to the yard. This was echoed by HMRC's reviewing officer in his review conclusion letter - "I do not think, on the balance of probabilities, that the new surface does anything more than the previous surface did".

Implications

A taxpayer wishing to be less contentious may have accepted HMRC's stance, however this decision is a good illustration that HMRC are sometimes not correct with their interpretation and that it can indeed be appropriate and worthwhile to challenge an enquiry or a closure notice, as in this case which was found to be incorrect on the project evidence.

Whilst the SMSL case does not bring to light any new technical detail regarding capital vs revenue expenditure allocation, it serves as an important reminder to ensure expenditure has been described and allocated correctly.

If have any property tax issues please do get in touch for a no obligation discussion. You can phone the team on 0345 230 6450 or email healthcheck@e3consulting.co.uk.

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