

Supreme Court Victory for Mason Owen Client

The Supreme Court handed down its judgment in the case of Iceland Foods Ltd v Berry (Valuation Officer) on 7 March. The judgment allowed Iceland's appeal against the decisions of the Court of Appeal and the Upper Tribunal (Lands Chamber).

The issue at stake was whether or not the air handling systems in Iceland's shops should be subject to business rates. Air conditioning systems which are purely for the comfort of customers and staff are rateable, but Iceland argued that their systems were better described as 'Process Cooling' and operated mainly to support the operation of the refrigerated cabinets in their shops. Their systems operate 24 hours a day, 365 days a year, and without them the cabinets could malfunction, frozen food could thaw and chilled food could deteriorate.

The Supreme Court agreed with Iceland, and accepted that the systems were tools of the company's trade. The Valuation Office Agency's arguments that the exemption should only apply to industrial premises were described as 'an impossible contention'.

The judgment can be found here

<https://www.supremecourt.uk/cases/docs/uksc-2016-0226-judgment.pdf>

A press summary can be found here

<https://www.supremecourt.uk/cases/docs/uksc-2016-0226-press-summary.pdf>

The handing down can be viewed here

<https://www.supremecourt.uk/watch/uksc-2016-0226/judgment.html>

Mason Owen was involved in the case from the outset in 2011. The first stage in the litigation process was the local Valuation Tribunal, which decided in Iceland's favour. The VOA appealed that decision to the Upper Tribunal (Lands Chamber), which decided against Iceland. The Court of Appeal also decided against Iceland, but leave to appeal to the Supreme Court was granted. The case was heard on 25 January, and the judgment handed down on 7 March.

Mason Owen's Paul Moran and Greg Davenport (before his death in 2017) were an integral part of the Iceland team from the very beginning, working with solicitor Matthew Forrest of TLT Manchester and barristers Daniel Kolinsky QC and Luke Wilcox of Landmark Chambers.

Paul Moran commented "This has been a long, and at times frustrating, road. We first formulated the argument in 2011, and approached the VOA to set out our case in detail. We hoped that by doing so we could avoid litigation. However, it quickly became clear that agreement would not be possible. We decided on a test case and began the litigation process. It is gratifying to see this outcome, particularly as many of the arguments we first put forward in 2011 have been used by the Supreme Court to explain its judgment.

"The increase in value for an individual shop is relatively small, but Iceland has almost 900 shops, and every one of them has an air handling system. The financial benefit of the Supreme Court decision to the company is significant".

If you have any queries about the case, or any other matter relating to Business Rates, please contact Paul Moran on 0151 242 3032 or paul.moran@masonowen.com