for addressing only the rare examples of taxpayers seeking egregiously to spin out hopeless appeals.

Hartley Foster[*]

Tinkler v HMRC: a complicated mistake?

Mistakes happen. For all the heat that can be generated by legal arguments, at the heart of the recent Supreme Court case of *Tinkler v HMRC* (*Tinkler*)[1] is the question of what approach the law should take where an official within HMRC[2] has made a simple mistake, which went uncorrected—a notice of enquiry was sent to the wrong address.

In seeking to provide an answer to this seemingly simple question however, the Supreme Court was tasked with engaging with complex arguments around estoppel, on which this short note shall touch. But in understanding the outcome in the case, the following words of Lord Burrows (who handed down the lead judgment in the case) are probably the most enlightening of all in the judgment:

> "Standing back from the detail, what Mr Tinkler and his advisers have done is to take at a late stage what can fairly be described, on the facts of this case, as a technical point (that the notice of enquiry was sent to the wrong address) even though that has not caused Mr Tinkler any prejudice. It is entirely satisfactory that, by reference to estoppel by convention, the law has the means to avoid such a technical point succeeding".[3]

Facts and litigation history

Between October 2003 and August 2004, the taxpayer lived intermittently at an address in Heybridge Lane in Cheshire.[4] In attempting to comply with the requirements of the Taxes Management Act 1970 (TMA 1970), HMRC delivered a section 9A notice of enquiry to this address on the basis that this was his "usual or last known place of residence". This notice of enquiry was sent on 1 July 2005. Most problematically, the taxpayer had informed HMRC twice in January 2005 (by way of his tax return and also by way of his Form 64-8 authorising BDO as his agents) that his address for correspondence was at Station Road in Cumbria. Indeed, HMRC had changed the taxpayer's address on its system to this Station Road address as a result in February 2005. Why then the notice of enquiry was sent to the wrong address later is a bit of a mystery, but it seems to have been done on the volition of the tax inspector who opened the enquiry.[5]

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[1] *Tinkler v HMRC* (*Tinkler*) [2021] UKSC 39; [2021] S.T.C. 1546.
[2] For ease, this case note uses "HMRC", rather than the "Inland Revenue" throughout, even though many events relevant to the case took place before the establishment of HMRC in 2005.
[3] *Tinkler* [2021] UKSC 39 at [85].
[4] *Tinkler v HMRC* [2016] UKFTT 170 (TC) at [13].
[5] *Tinkler* [2021] UKSC 39 at [10].

This mistake appeared to play little role in the subsequent actions of the taxpayer or his agents. BDO did receive a copy of the notice on 1 July 2005 and later acknowledged receipt. BDO also responded to some queries raised in the letter accompanying the copy and the taxpayer's PA "probably"[6] responded to other queries. Before the end of November 2005, the First-tier Tribunal (FTT) found that either the taxpayer himself or his PA had been informed by BDO of the enquiry into the 2003/04 tax return. This falls well within the ordinary one year time limit imposed on HMRC for making section 9A enquiries.[7] HMRC also updated their system at this time with the correct address and could have rectified the earlier mistake by serving the notice on the taxpayer at this address. But that did not happen—an important point which will be picked up later in this note.

HMRC subsequently issued a closure notice in August 2012, rejecting the taxpayer's claim of a substantial income tax loss. This, incidentally, came seven years after the enquiry began, three years before the case was heard by the FTT and nine years before this judgment was handed down by the Supreme Court! The taxpayer appealed against the findings in the closure notice and very late in the day—approximately two months before the tribunal hearing—amended the notice of appeal to include a challenge to the validity of the closure notice on the basis that the enquiry was not validly opened by virtue of the failure to deliver the section 9A notice to the taxpayer's address.

Various arguments were put before the tribunals and later the Court of Appeal that were not subsequently litigated before the Supreme Court. For instance, the FTT made a finding that BDO did not have authority, either actual or apparent, to receive notices of enquiry on behalf of the taxpayer. The Upper Tribunal (UT) disagreed with this finding, but it was upheld by the Court of Appeal subsequently. On the other hand, the FTT found that the taxpayer or his PA knew of the enquiry in November 2005 and that this actual knowledge of the enquiry was sufficient to render the enquiry validly opened, whereas the UT disagreed and held that the notice cannot become valid without being properly addressed.

The only argument that the Supreme Court had to consider in relation to this case was whether the taxpayer was estopped by convention from denying that HMRC had opened a valid enquiry. The FTT found that estoppel did operate in this case and that it would be unconscionable for him to renege on the shared mistaken assumption about the validity of the enquiry. The UT disagreed on the basis that estoppel by convention would undermine the statutory protection provided by section 9A TMA 1970. Further, the taxpayer was not responsible for the common mistaken assumption and it would not be unconscionable for the taxpayer to deny the validity of the enquiry.

Judgment

Lord Burrows, a recent Supreme Court appointee who came directly to the bench from academia, where he specialised in private law, gave the leading judgment of the court. He began the critical portion of the judgment by discussing the case law on estoppel by convention, setting out the

[6] *Tinkler* [2021] UKSC 39 at [15].
[7] Taxes Management Act 1970 s.9A(2).

principles and reasoning of six cases which preceded the "highly influential"[8] case of *HMRC v Benchdollar Ltd* (*Benchdollar*),[9] which was decided by then Briggs J (now Lord Briggs, who as it happens gave a concurring judgment in the *Tinkler* case).

The first case assessed by Lord Burrows was *Amalgamated Investment & Property Co Ltd (In Liquidation) v Texas Commerce International Bank Ltd*,[10] in which the Court of Appeal recognised (albeit without using the precise phrase) the doctrine of estoppel by convention in England and Wales. The case also critically highlighted the point that the mistake at the heart of the common assumption, a necessary ingredient of an estoppel by convention argument, can be instigated by either party. This means that a party can rely upon their own mistake for the purposes of invoking estoppel by convention.[11] The second case was *Keen v Holland*,[12] important because the Court of Appeal held that the doctrine cannot apply, *in certain circumstances*, where to do so would undermine a statute. The relevant provision of the statute in that case (section 2(1) of the Agricultural Holdings Act 1948) was of a mandatory nature which could not be outflanked by a contract. And by extension then, the provision could not be neutered by estoppel by convention.[13] The third was *K Lokumal & Sons (London) Ltd v Lotte Shipping Co Pte Ltd* (*K Lokumal & Sons (London) Ltd*),[14] which elaborated on the sort of conduct that is required of the party who is to be estopped. The Court of Appeal in *Tinkler* found that the common mistaken assumption must be shared and communicated by the parties to each other, the logic being that such communication demonstrates that the party raising estoppel has to some extent relied on the other party's conduct in respect of the common assumption.[15] For Lord Burrows the case stood for the proposition that

> "the party which is alleged to be estopped…is required to manifest its acceptance or sharing of the assumption to the party which is alleging the estoppel".[16]

The relevant communication can thus arise not only by way of words, but also by way of conduct. But crucially, this communication must be "manifesting" of an assent—that word being used here to stress that there must be more than mere acknowledgment of the assumption. The fourth was *Norwegian American Cruises A/S v Paul Mundy Ltd*[17] where Bingham J (as he then was) supported the finding in *K Lokumal & Sons (London) Ltd* that there must be some conduct or words which manifest an assent to the common mistaken assumption. The court further found that estoppel by convention could apply to assumptions of fact or law, that the doctrine could apply not just to instances where the parties were about to enter into a transaction but could also apply where the parties to a transaction regulated their subsequent dealings on a conventional basis, and that the doctrine requires it to be unjust or unconscionable for the party against whom

[8] *Tinkler* [2021] UKSC 39 at [2].
[9] *HMRC v Benchdollar Ltd* (*Benchdollar*) [2009] EWHC 1310 (Ch); [2009] S.T.C. 2342.
[10] *Amalgamated Investment & Property Co Ltd (In Liquidation) v Texas Commerce International Bank Ltd* [1982] Q.B. 84 CA.
[11] *Tinkler* [2021] UKSC 39 at [32].
[12] *Keen v Holland* [1984] 1 W.L.R. 251 CA.
[13] *Tinkler* [2021] UKSC 39 at [33].
[14] *K Lokumal & Sons (London) Ltd v Lotte Shipping Co Pte Ltd* [1985] 2 Lloyd's Rep. 28 CA.
[15] *Tinkler* [2021] UKSC 39 at [34].
[16] *Tinkler* [2021] UKSC 39 at [37].
[17] *Norwegian American Cruises A/S v Paul Mundy Ltd* [1988] 2 Lloyd's Rep. 343 CA.

the estoppel was raised to resile from that convention.[18] The fifth was *India v India Steamship Co Ltd (No.2)*,[19] where the House of Lords confirmed the existence of estoppel by convention.[20] The sixth was *Johnson v Gore Wood & Co (No.1)*,[21] in which the House of Lords applied the doctrine of estoppel by convention, albeit by way of obiter dicta.[22]

The principles from these judgments were then distilled by Briggs J in *Benchdollar* into the following five[23] (the first is provided here in its amended form following later decisions)[24]:

1) The common assumption upon which the estoppel is based must be expressly shared between the parties, as demonstrated by conduct or words which manifest an assent to the common assumption, rather than merely understood by the parties in the same way.
2) "The expression of the common assumption by the party alleged to be estopped must be such that he may properly be said to have assumed some element of responsibility for it, in the sense of conveying to the other party an understanding that he expected the other party to rely upon it."
3) "The person alleging the estoppel must in fact have relied upon the common assumption, to a sufficient extent, rather than merely upon his own independent view of the matter."
4) "That reliance must have occurred in connection with some subsequent mutual dealing between the parties."
5) "Some detriment must thereby have been suffered by the person alleging the estoppel, or benefit thereby have been conferred upon the person alleged to be estopped, sufficient to make it unjust or unconscionable for the latter to assert the true legal (or factual) position".

The *Benchdollar* case was particularly relevant to the *Tinkler* decision not merely because it touched upon the issue of estoppel by convention, but also because it too concerned a claim by HMRC that taxpayers should be estopped by convention from relying upon the expiration of limitation periods. In *Benchdollar*, HMRC were keen to counteract the effects of tax avoidance schemes designed to reduce employers' National Insurance contributions (NICs). The relevant time limit for commencing claims for recovery of employers' NICs being six years, HMRC *purported* to enter into agreements with the employers to postpone the running of the limitation period (while contesting the underlying liability). *Purported* is stressed because HMRC made a significant mistake in designing the agreement—the terms were expressed in such a way so as *not* to constitute an acknowledgement of liability—with the result that the agreements did not have the desired effect of pausing the running of the limitation period.[25]

[18] *Tinkler* [2021] UKSC 39 at [38].
[19] *India v India Steamship Co Ltd (No.2)* [1998] A.C. 878 HL.
[20] *Tinkler* [2021] UKSC 39 at [39].
[21] *Johnson v Gore Wood & Co (No.1)* [2002] 2 A.C. 1 HL.
[22] *Tinkler* [2021] UKSC 39 at [40].
[23] *Benchdollar* [2009] EWHC 1310 (Ch) at [52].
[24] Principally *Blindley Heath Investments Ltd v Bass* [2015] EWCA Civ 1023; [2017] Ch. 389.
[25] HMRC's agreement sought to utilise the Limitation Act 1980 s.29(5), but that provision only has effect either where there is part payment or an acknowledgment of liability.

Applying the aforementioned principles, Briggs J found that estoppel by convention succeeded in respect of claims that were statute barred before 11 September 2001 (which was when HMRC decided to change their approach and about a month after HMRC were made aware of the mistake).[26] Although HMRC's awareness of the mistake was clear in August 2001, the case law affords the party raising the estoppel a reasonable period of time protect itself from the consequences of a discovery of the true legal or factual position. The court was content that this period ended on 11 September that year because

> "by then the Revenue had made a conscious decision not to take steps to protect itself in relation to any claims for which the primary limitation period was still running at that later date".[27]

Notable for the purposes of the *Tinkler* case, the court held that the employers assumed a sufficient degree of responsibility for the common mistaken assumption (despite HMRC being the party that made the mistake) and that it was unfair or unjust to resile from this assumption by virtue of HMRC's detrimental reliance, and the employers' anticipated benefit of HMRC's reliance, on the assumption.

As with the outcome in *Benchdollar*, the Supreme Court in *Tinkler* found that the estoppel by convention claim succeeded. Lord Burrows highlighted first that it was not significant that the mistake at the heart of the common assumption in the present case was instigated by HMRC and not the taxpayer. Further, the court was content that BDO's conduct on behalf of the taxpayer was sufficient to manifest an assent to the common mistaken assumption—BDO engaged with HMRC from July 2005 in relation to the enquiry, communicating a belief that the enquiry was validly opened, and at one point had acknowledged and confirmed that "the Return is now the subject of a section 9A TMA 1970 enquiry".[28] In short, this was not an instance where "BDO was simply repeating back to HMRC the mistake…BDO's conduct went further than that".[29]

Applying the *Benchdollar* principles then, Lord Burrows found that the first three principles were satisfied as both parties shared the mistaken common assumption, which BDO made manifest to HMRC by its conduct, and that HMRC relied as BDO expected or intended on the affirmation of the common assumption.[30] Lord Burrows had "no difficulty at all" in finding that the fourth principle was satisfied because of the mutual dealings between the parties in relation to the enquiry and other matters at the time.[31] The fifth principle was satisfied because HMRC relied to their detriment on the mistaken common assumption by not sending another notice of enquiry to the taxpayer before the expiration of the 12 month limit and by consequence of which the taxpayer could stand to gain £635,000 if estoppel by convention could not be established by HMRC. Finally, there was nothing unconscionable about HMRC raising the estoppel, given the detrimental reliance and the fact that the taxpayer or his PA knew of HMRC's enquiry in November 2005, but did not raise the issue of the invalid enquiry.[32]

[26] *Benchdollar* [2009] EWHC 1310 (Ch) at [30]–[31].
[27] *Benchdollar* [2009] EWHC 1310 (Ch) at [61].
[28] *Tinkler* [2021] UKSC 39 at [57].
[29] *Tinkler* [2021] UKSC 39 at [59].
[30] *Tinkler* [2021] UKSC 39 at [61].
[31] *Tinkler* [2021] UKSC 39 at [62].
[32] *Tinkler* [2021] UKSC 39 at [64]–[65].

Before concluding his judgment, Lord Burrows dealt with two further issues. The first was that the mutual dealings between the parties were not contractual or transactional dealings as often occurred in the case law. But the *Benchdollar* case of course would serve as precedent for the claim that estoppel by convention can apply in mutual dealings not of a contractual nature.[33] By way of obiter comment, Lord Burrows opined that the five *Benchdollar* principles, with the first as amended by the subsequent cases to make clear that conduct or words can suffice to manifest an assent, "comprise a correct statement of the law on estoppel by convention for contractual, as well as non-contractual, dealings."[34]

The second was the claim that the application of estoppel by convention to the present case had the effect of outflanking the statutory protection afforded by section 9A TMA 1970. However, this provision is not of a mandatory nature, as was the case in section 2(1) of the Agricultural Holdings Act 1948, because it would have been open to the parties to "agree expressly the method by which the notice of enquiry was to be given".[35] Section 115 TMA 1970 merely specifies one method of service. This was also the finding of the Court of Appeal.[36] Thus, the statute would not be undermined by estoppel by convention. The fact that the taxpayer or his PA knew of the enquiry in November 2005 served to further this conclusion.[37]

Lord Briggs handed down a short concurring judgment. In it, he made clear that the first principle of estoppel by convention as set out in his *Benchdollar* judgment was appropriately amended by subsequent case law.[38] He also made some interesting remarks about the nature of the reliance which is necessary for estoppel by convention to arise.[39] In agreement with Lord Burrows, he stressed that the claimant raising the estoppel must have relied upon the defendant's subscription to the common mistake. But conversely, if the defendant could reasonably expect the claimant to rely exclusively upon their own advice, then estoppel will not be made out. The importance of this distinction lies in the fact that there is a reasonable argument that HMRC should have been able to rely upon their own advice (and not just the taxpayer's subscription to the mistake) about whether an enquiry had been validly opened. The defendant taxpayer, following this thread of argument, could reasonably believe that he had not influenced HMRC's thinking on whether a valid enquiry had been opened because HMRC should have their own internal means of checking whether enquiries are validly open. Lord Briggs thus admitted to "having been in some real doubt about" whether this element of estoppel had been made out by HMRC but was nevertheless satisfied by Lord Burrows' reasons that the requirement had been met.[40]

Commentary

Before making some general observations about the judgment there are two specific aspects that the writer wishes to touch upon in further detail. The first is Lord Briggs' "doubt" about whether

[33] *Tinkler* [2021] UKSC 39 at [71].
[34] *Tinkler* [2021] UKSC 39 at [78].
[35] *Tinkler* [2021] UKSC 39 at [81].
[36] *Tinkler v HMRC* [2019] EWCA Civ 1392 at [73]; [2019] S.T.C. 1685.
[37] *Tinkler* [2021] UKSC 39 at [82].
[38] *Tinkler* [2021] UKSC 39 at [87].
[39] *Tinkler* [2021] UKSC 39 at [88]–[90].
[40] *Tinkler* [2021] UKSC 39 at [91].

the reliance element of the estoppel by convention claim had been made out. Lord Briggs' concern is understandable. The taxpayer, for the purposes of the estoppel by convention claim, is not entitled to rely upon HMRC having their own internal processes for ensuring enquiries are validly opened. Put more forcefully, this means the taxpayer should not trust HMRC to ensure propriety in relation to the procedures in the tax assessment process. Following the logic again, the taxpayer should not trust HMRC to competently execute ordinary tasks of tax administration. The full implication of that argument is, as such, quite unfortunate.

The second is the awareness that HMRC should have had of their earlier mistaken delivery of the enquiry notice. HMRC were told on 1 November that the taxpayer did not live at the address to which the enquiry notice was sent. And HMRC updated their system to reflect this fact. At this point, HMRC should have known that a new notice of enquiry was needed—the system should have told HMRC officials that the address at which the previous notice was sent was not the residence of the taxpayer and even a short scanning of the other records on file (principally the tax return for the relevant year and Form 64-8) would have shown that the taxpayer had not lived there at the time that notice of enquiry was delivered. In *Benchdollar*, Briggs J held that estoppel by convention should not operate where HMRC had been advised of their mistake and knew that the case "could still be saved by the taking of prompt protective steps".[41] The protective step in the *Tinkler* case would have been to send a new notice of enquiry to the correct address some time before 31 January 2006 (this would have been the expiry of the one year window in which to open an ordinary enquiry). Although HMRC would have been entitled to a reasonable period of time to protect themselves from the consequences of a discovery of the true legal or factual position,[42] this period of time would surely have ended at some point before 31 January 2006, almost two months after being made aware of the mistake. In *Benchdollar*, the date by which HMRC should have taken their protective steps, Briggs J found, was just over a month after the discovery of the true legal and factual position.

This argument was not addressed by the Supreme Court in its judgment and perhaps this writer has misunderstood the precise factual matrix. But it seems a consequence of the fact that the judgment focuses on the earlier mistake of sending the enquiry notice to the wrong address to the neglect of the later mistake which was the failure to correct that mistake once HMRC had been made aware of it. This triggers a broader thought about how law treats mistakes and whether different mistakes should be afforded different treatment. In this case, the earlier mistake was forgiven by virtue of the operation of estoppel by convention. But, as set out here, the later mistake *could* have operated to prevent the estoppel claim being successful and thus leave HMRC to suffer the consequences of the mistake. Meanwhile, it might be thought that HMRC's mistake in *Benchdollar* was more forgivable than the mistake in *Tinkler*—in *Benchdollar* HMRC had tried to assist the taxpayers with the postponement agreement, whereas in *Tinkler* HMRC had simply failed to perform a routine task. Nevertheless, both mistakes were afforded the same treatment by the estoppel by convention doctrine.

Moving on to more general observations, first, note the sheer delay between the opening of the enquiry in 2005 and the final Supreme Court decision in 2021. The enquiry was open for seven years, whilst the litigation then took a further nine years. Given that delays like this operate

[41] *Benchdollar* [2009] EWHC 1310 (Ch) at [65].
[42] *Benchdollar* [2009] EWHC 1310 (Ch) at [60].

in no party's interests, it is important that research is carried out into this problem to see what can be done. To that end, cases like this demonstrate the timeliness and importance of research projects conducted by bodies such as the Tax Law Review Committee of the Institute for Fiscal Studies into delays.[43]

Secondly, there are mixed emotions one gets from reading this judgment. On the one hand, there is something quite disturbing about statutory protections deliberately put in place by parliament being circumvented, and on the other hand, there is the feeling that the circumstances of the case were precisely those when such circumvention seems appropriate. The relationship between a taxpayer and HMRC is fundamentally governed by statute: HMRC is a body established by statute, the duty to pay taxes is statutory and critically, HMRC's formal enquiry powers are provided by statute. That is not to say HMRC are entirely constrained by statute in their actions—there is nothing preventing HMRC from making informal enquiries for instance.[44] But the force of these informal enquiries comes from the fact that HMRC have the option to engage formal legal powers by opening an enquiry if a taxpayer proves uncooperative. As such, it is wrong to think of the opening of an enquiry as a mere legal formality. It is important precisely because it triggers intrusive legal powers which compel (with the threat of heavy penalties) taxpayers to provide information to HMRC.[45] Where an enquiry has not been validly opened that means that these legal powers should not have been triggered and information should not have been demanded by compulsion. From a public law perspective, the finding that the enquiry was not validly opened and, by implication, that information powers were used without being lawfully engaged, makes the result in this case seem odd.

And yet, the actions of the taxpayer in the case itself are sufficient to make one sympathetic to the idea that justice was ultimately served. The taxpayer, who was well represented throughout, was aware that HMRC had purported to open the enquiry within the time frame allowed by parliament. The enquiry was carried out for seven years, during which neither he nor his advisers indicated that there was a problem with its opening in the first instance. It was a further three years later and just two months before the FTT hearing that it was first brought up that the enquiry notice had been sent to the wrong address.

Finally, there is a need for a moment's reflection on the broader implications of the *Tinkler* judgment. The case makes clear that it is possible for the taxpayer *and* HMRC to invoke an estoppel by convention argument where both have mutually dealt with each other on the basis of a common mistake. Estoppel by convention then could remedy other procedural defects, such as where HMRC purport to close an enquiry but fail to do so by virtue of not stating the officer's conclusions (this could operate in the taxpayer's favour in that although the enquiry was not in fact closed, HMRC would be estopped from later asserting that it was still open). But, in reality, the precedent set is quite narrow. It is unlikely that the doctrine could be used by HMRC against an unrepresented taxpayer for instance because HMRC should rely upon their own internal

[43] See Michael Blackwell, *The tax tribunals: the next 10 years* (Report for the Tax Law Review Committee (TLRC), 31 August 2021), *https://ifs.org.uk/publications/15554* [Accessed 19 October 2021]. Disclosure: the writer of this note is a member of the Tax Law Review Committee.
[44] See *JJ Management Consulting LLP v HMRC* [2020] EWCA Civ 784; [2021] Q.B. 257.
[45] See generally Finance Act 2008 Sch.36.

advice in such a case, rather than an unrepresented taxpayer's subscription to a common mistake.[46] It would not operate to cure invalidly opened enquiries generally either where notice has been sent to an incorrect address. There, HMRC would not receive any response from the taxpayer in question and at that point (it would be expected) HMRC would make a concerted effort to find the correct address for the taxpayer. What is unique about the *Tinkler* case is that HMRC had good reason to think the enquiry had been validly opened[47] because the taxpayer's representatives engaged with HMRC promptly in relation to it and provided information in correspondence that could only have been obtained from the taxpayer after HMRC had begun the formal enquiry. It was after 10 years of correspondence between the parties that the argument about the invalidity of the enquiry first got aired. That is why Lord Burrows referred to the taxpayer's argument as a "technical point" and why the Supreme Court was content that it should not succeed.[48]

Stephen Daly[*]

Royal Opera House Covent Garden Foundation v HMRC: when is an economic link direct and immediate for VAT purposes?

Background

There are always two issues in VAT:

1) Who is supplying what to whom?
2) A link must be established between inputs and taxable outputs, for input VAT to be recoverable from output VAT.

On these two issues hang all the law and the prophets.

The issue in *Royal Opera House Covent Garden Foundation v HMRC* (*Covent Garden (CA)*)[1] was not the right to deduct input tax from output tax, but the extent of that right.

The Royal Opera House Covent Garden Foundation (ROH) stages productions of operas and ballets. It incurs input VAT on its production costs, but does not charge output VAT on tickets, as the supply of these is exempt.[2] It provides catering facilities to those attending these performances, paying input VAT on its catering costs, and adding output VAT to charges. In those circumstances, could a proportion of the input VAT on production costs be attributed to the output tax on catering charges, given that the opera and ballet productions gave rise indirectly to the catering activity?

[46] See David Whiscombe, "Gotcha! Tinkler and estoppel" [2021] 1543 *Tax Journal* (5 August 2021) *taxjournal.com*, *https://www.taxjournal.com/articles/gotcha!-tinkler-estoppel* [Accessed 19 October 2021].
[47] See for instance *Tinkler* [2021] UKSC 39 at [91] (Lord Briggs).
[48] *Tinkler* [2021] UKSC 39 at [85].
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[1] *Royal Opera House Covent Garden Foundation v HMRC* (*Covent Garden (CA)*) [2021] EWCA Civ 910; [2021] S.T.C. 1374.
[2] Value Added Tax Act 1994 Sch.9, Group 13, Item No 1(b).