



**Appeal number: CRR/2014/0001
CRR/2014/0006**

**IN THE FIRST-TIER TRIBUNAL (CHARITY)
GENERAL REGULATORY CHAMBER**

KEBEDE AND OTHERS **Appellants**
**(THE TRUSTEES OF THE ETHIOPIAN ORTHODOX
TEWAHDO CHURCH ST. MARY
OF DEBRE TSION LONDON)**

- and -

THE CHARITY COMMISSION FOR **Respondent**
ENGLAND AND WALES

TRIBUNAL: JUDGE ALISON MCKENNA

Sitting in Chambers on 10 April 2015

Upon the Tribunal having heard from Mr Simret of Lumbini Solicitors for the Appellants and Mr Willis-Pickup from the Charity Commission for the Respondent at a telephone hearing on 10 April 2015

And upon the Respondent's appeal to the Upper Tribunal FTC/108/2014 having been withdrawn

IT IS DIRECTED that

1. The Respondent is to file with the Tribunal and serve on the Appellants its Response to the Appellants' application in CRR/2014/0001 by 4pm on 24 April 2015;
2. The Respondent is to file with the Tribunal and serve on the Appellants an application for the consolidation of cases CRR/2014/0001 and CRR/2014/0006 by 4pm on 24 April 2015;

3. The Appellants are to file with the Tribunal and serve on the Respondent their Reply to the Response and their submissions on the consolidation application by 4pm on 18 May 2015;

4. The Tribunal will thereafter rule in writing on the issue of consolidation and issue consequential directions for the hearing of these matters at the earliest possible date.

REASONS

5. The Charity Commission opened a statutory inquiry into the charity of which the Appellants are trustees on 31 March 2014. The Appellants applied to the Tribunal on 14 April 2014 and that case is CRR/2014/0001.

6. The Charity Commission informed the Appellant and the Tribunal on 12 May 2014 that it had closed the inquiry. The Appellants' solicitors still wanted the Respondent to file its Response and argued that the Tribunal retained jurisdiction to hear the case notwithstanding the closure of the inquiry.

7. The Respondent applied for the Appellants' application to be struck out. I issued a ruling on 23 June 2014 in which I refused the strike out and on 21 July 2014 I gave the Respondent permission to appeal my ruling to the Upper Tribunal (Tax and Chancery Chamber). In the circumstances I directed that the Respondent need not file a Response in CRR/2014/0001, as it would have to make its submissions to the Upper Tribunal. The Respondent's appeal to the Upper Tribunal was subsequently withdrawn, with the consent of the Upper Tribunal, without determination. In the circumstances, the Respondent must now file its Response, to which the Appellants may reply before this matter is set down for a hearing.

8. On 22 October 2014, the Appellants made a second application to the Tribunal in respect of the Respondent's opening of a second statutory inquiry into the charity. That is case number CRR/2014/0006. The Respondent has filed a Response. The Appellants did not file a Reply.

9. The Respondent has suggested in correspondence that these two cases should be consolidated so that there will be only one hearing. The Appellants have not agreed to this, but they will be able to consider their position more fully after they have seen the Respondent's Response in CRR/2014/0001. I have asked Mr Willis-Pickup to provide Mr Simret with a copy of Mr Justice Turner's decision in *Maharani Restaurant v HMRC* (1999) STC 295, in which he helpfully outlined the factors to which a Judge should properly have regard when deciding whether to exercise the power to consolidate separate proceedings. These include: the commonality of identity of the Appellants, the commonality of witnesses, the degree of overlap of evidence, the desirability of sparing witnesses the need to give evidence more than once (and the risk that their evidence on the same point might be accepted in one appeal but not in another), the comparative cost and length of holding separate or consolidated hearings and, importantly, the risk of prejudice to the Appellants in relation to the presentation of similar fact evidence. Mr Simret is to provide me with his submissions on the consolidation proposal in the light of these factors and having taken further instructions.

10. If consolidation is not agreed, I will rule on the matter in writing, having considered the parties' respective submissions. I will also then be in a position to issue directions for a hearing or hearings, although I have encouraged the parties to seek to agree draft directions between them and to submit them to me, in accordance with the overriding objective.

ALISON MCKENNA

PRINCIPAL JUDGE

10 April 2015

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