

Case: 2007/0106

Promulgated 31 March 2008

Heard 17 March 2008

Rule 10 Striking Out

A W Tanner V ICO and Commissioners for Revenue and Customs

1. The Tribunal dealt with the matter under the provisions of Rule 10 of the Information Tribunal (Enforcement Appeals) Rules 2005. The appeal was disposed of summarily.
2. This followed an oral pre-Directions hearing dated 2 December 2007 involving all parties and a full oral hearing in respect of the application for summary disposal – again involving all parties – heard on 17 March 2008.
3. The test used by the Tribunal in dealing with this application for summary disposal under Rule 10 was the threshold test developed in Part 24 of the Civil Procedure Rules of the Supreme Court and considered by the Court of Appeal in **Swain v Hillman and Gay [2001] 1 All E R 91** in terms of any decision to make any Summary Order and, in particular, Rule 24.2.
4. In particular the Tribunal adopted the Court of Appeal test from that case that the words in Rule 24.2 “no real prospect of being successful or succeeding” spoke for themselves and meant that the Tribunal had to decide whether there was a “realistic” as opposed to a “fanciful” prospect of success.