Neutral Citation: [2023] UKFTT 988 (TC)

Case Number: TC08999

FIRST-TIER TRIBUNAL
TAX CHAMBER

Sitting in London with remote attendees

Appeal reference: TC/2021/02174
TC/2021/02317
TC/2021/02319
TC/2021/02327
TC/2021/02393
TC/2021/02394
TC/2021/02395
TC/2021/02396
TC/2021/02397
TC/2021/02398

INCOME TAX – Seed Enterprise Investment Scheme – ten appellants with common director and similar aims – joined appeals against Respondents' refusal to grant them authority to issue compliance certificates to the appellants' shareholders – appeals dismissed

Heard on: 27, 28 and 29 March 2023
Judgment date: 23 November 2023

Before

TRIBUNAL JUDGE JANE BAILEY
MEMBER GILL HUNTER

Between

(1) LEGEND OF GOLDEN TEMPLE LIMITED
(2) THE LEGENDS OF SANCHI STUPA LIMITED
(3) THE LEGENDS OF THE SHIVA JYOTIRLINGAS LIMITED
(4) THE LEGENDS OF SHIRDI SAI BABA
(5) THE LEGENDS OF THE SUN TEMPLE OF KONARK LIMITED
(6) THE LEGENDS OF TIRUPATI BALAJI LIMITED
(7) THE LEGENDS OF VAISHNO DEVI LIMITED
(8) THE LEGENDS OF PASHUPATINATH TEMPLE
(9) THE LEGENDS OF NATHDWARA, SHRINATHJI & KRISHNA TEMPLES OF INDIA LIMITED
(10) THE LEGENDS OF LORD JAGANATH OF PURI LIMITED

Appellants

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS
Respondents

Representation:

For the Appellants: Mr Anshul Doshi, director of the Appellants

For the Respondents: Mr Martin Priestly, litigator of HM Revenue and Customs' Solicitor's Office

DECISION

INTRODUCTION

1. These joined appeals are by ten appellants who have a common director. Each appellant is appealing to the Tribunal against HMRC's decision to refuse that appellant the authority to issue a Seed Enterprise Investment Scheme ("SEIS") compliance certificate to their investors in respect of the investments that have been made in that appellant.

EVIDENCE BEFORE US

2. We had before us a bundle of documents (containing a witness statement from each of the two witnesses mentioned below), a supplementary bundle of documents, a bundle of authorities, and further documents that were admitted during the course of the hearing.

3. We heard oral evidence from Mr Anshul Doshi (who also presented the appeal for the ten appellants) and Mr Bharat Hindocha.

4. In the years with which we are concerned, Mr Hindocha was a practising accountant. He is an investor in three of the appellants and he is a friend of Mr Doshi. Mr Hindocha also advised his accountancy clients some of whom who then became investors in the appellants. We found Mr Hindocha to be a wholly truthful and reliable witness and we accepted his evidence to us on all matters that were within his knowledge.

5. Mr Doshi is the sole director of the ten appellants. We found Mr Doshi to be an enthusiastic and creative person, who focussed on the overall concept and project but who did not deal with every minor detail. We found Mr Doshi to be a truthful witness who was trying to assist us but, while we found some of Mr Doshi's evidence to be reliable and credible, there were some occasions when we considered that Mr Doshi's enthusiasm and ideas for the future got the better of him, with the result that his evidence in some areas was not credible. So, while we accept some of Mr Doshi's evidence, we do not accept it in its entirety.

6. Also within the bundle were a letter and a further statement. We set out the weight we attach to each of these two documents. Looking first at the letter, this was from the President of the International Sikh Fedration (sic) ("ISF") and addressed to Mr Harman Baweja. It is dated 3 May 2020. On the basis of other documents in the bundle we are satisfied that Mr Baweja is a film director and producer and, in particular, he directed an extremely popular and financially successful Indian animation film called Chaar Sahibzaade. The letter from the ISF was sent in support of Mr Baweja's "new venture for promoting Sikh history and significance, past and present" and stated that there would be support for:

> … your idea of creating this Venture with sole purpose of creating content dedicated to this purpose including e-books, documentaries, film and series depicting our rich cultural heritage and following the guidelines as have been done in the past.

7. We accept HMRC's criticism that it was unclear that the letter was written about the First Appellant's project given that Mr Baweja is not the guiding force behind the First Appellant. (The letter could not refer to any of the remaining appellants as they are not concerned with Sikh sites.) We gave the letter the limited weight we would give any other letter written by a person who did not attend the hearing to give evidence.

8. The further, undated, statement was from Mr Vashnu Bhagnani, who described himself as a "renowned film producer and media entrepreneur". Mr Bhagnani's statement does not meet the requirements to be an expert witness statement because there is no explanation of the specific subject in which Mr Bhagnani holds himself out as being an expert, and there is no record of the experience or credentials that qualifies Mr Bhagnani as an expert in that

subject. In addition, Mr Bhagnani is a good friend of Mr Doshi and so he lacks sufficient independence to be an expert in these joined appeals. The appellants had not made an application to present expert evidence, and there did not appear to have been any interaction with the Respondents about whether the Respondents would wish to engage their own expert (once a specific area of expertise had been identified) or whether a joint report would be possible. Mr Bhagnani did not attend the hearing and so was not available for cross examination. We gave Mr Bhagnani's statement the limited weight we would give a letter written by a person who did not attend the hearing to give evidence.

FACTS FOUND

9. On the basis of the documents before us and the oral evidence of Mr Doshi and Mr Hindocha, we find as follows:

10. Mr Doshi has a Bachelor's degree in law, and is qualified as a chartered accountant. Mr Doshi describes himself as a media and retail industry entrepreneur. Until April 2018, Mr Doshi acted as Chief Operating Officer for Prime Focus World, a role with extremely demanding responsibilities and responsibility for approximately 8,000 employees.

11. While at Prime Focus World, and throughout the period considered in this Decision, Mr Doshi was also involved with other companies (outside the Prime Focus group of companies), and in other projects. On 14 March 2017, Mr Doshi was appointed as a director of a property development company called Zaak Properties Limited. On 23 March 2017, Mr Doshi was appointed as a director of a company called Aashni & Co Limited, a fashion house run jointly with his wife. At this time Mr Doshi was also the sole director and sole shareholder of a company called A & Co Film Rentals Limited.

The origin of the ten appellants

12. While working for the Prime Focus group of companies, Mr Doshi had worked on an animated Indian film called Chaar Sahibzaade 2. This film was a follow up to Chaar Sahibzaade (see above) and was produced and directed by Mr Baweja. Mr Doshi told us that the success of these films exposed to him the demand for more audio-visual content related to religious sites.

13. Mr Doshi told us that he had also noticed that religious sites in the UK often sold a booklet or CD that provided details of the history and origin stories for that site. Many of the larger and more famous religious sites in India and Nepal had two (or more) conflicting stories about the origins and significance of the site. Mr Doshi told us he concluded that there was scope for temples in India and Nepal to provide audio visual content for their devotees and other visitors. Mr Doshi told us that, after discussions with some friends, he decided to develop material which, in due course, he hoped to use to pitch to the relevant religious sites and which would persuade the head priest or trustees of the site to engage with him to create audio-visual content centred upon the religious site. We make more detailed findings below on the nature of the content that the appellants intended, at various stages, to create but, in brief, we find that the nature of the material to be developed, and the ten appellants' intentions, changed significantly over the period 2017 to 2023.

14. We do not accept the appellants always intended to operate in the metaverse. The earliest documents refer to the creation of films and documentaries, and we find that the appellants' original intention was to create a feature length film for each religious site. By mid-2019, the documents refer to "multiple forms of content" and we find that the appellants had expanded their scope to include a TV series. By the time of the hearing, in late March 2023, Mr Doshi told us, and we accept, the ten appellants had – by that stage – each become more interested in developing a space in the metaverse for devotees to make a remote attendance to a virtual religious site.

15. At the outset, Mr Doshi identified ten places of religious significance (nine in India, one in Nepal). Of these ten sites, one was dedicated to the Sikh faith, one was Buddhist and the remaining eight were Hindu sites. These sites held significance for Mr Doshi's family but were also sites with a very large number of devotees, in excess of ten million devotees each, according to Mr Hindocha.

16. On 5 July 2017, the Eighth Appellant was incorporated.

17. On 19 July 2017, the First Appellant was incorporated.

The first Advance Assurance Application

18. Prior to the events with which we are concerned, Mr Doshi had become aware of the Seed Enterprise Investment Scheme ("SEIS") and, as an investor, he had previously received SEIS relief. On 16 August 2017, the agent for the Eighth Appellant submitted an advance assurance application to HMRC. In the covering letter, the agent stated:

> On receipt of the advance assurance from you, the company will invite investors to subscribe for 150,000 ordinary £1 shares and proceed to phase 1 of the project of making a 60 second teaser film and printed content.
>
> The director believes that the market in the production of religious films and documentaries (especially in the Indian sub-continent) is huge. There is already considerable interest in this project from potential investors.

19. In the SEIS advance application assurance form, the Eighth Appellant stated that it intended to raise approximately £150,000 through the issue of shares, and that the money raised by the shares would be for:

> The development phase of audio-visual content production, as set out in the business plan.

20. The form was ticked to indicate that a business plan had been attached, along with details of all trading and other activities to be carried on by the Eighth Appellant. We find, on the balance of probabilities, that the business plan that was attached was the SEIS proposal document.

21. The Eighth Appellant's SEIS proposal document contained the following:

> ***Objective***
>
> Initial seed funding of up to £150,000 will be sought from interested investors in order to fund the development stage of the project, as set out below.
>
> The Company has been set up to make audio-visual content related to the 'Pashupatinath Temple' of Lord Shiva in Kathmandu, Nepal.
>
> ***The content production plan includes:***
>
> - Development of an animated feature film which traces the stories behind the various legends associated with the temple
>
> - Production of Animation feature film for theatrical release which traces the stories behind the various legends associated with the temple
>
> - Development of TV Series surrounding each of the several temples within the overall Pashupatinath area, a Unesco World Heritage Site
>
> - Production of the TV Series
>
> - Development of a Live action feature film
>
> - Production of a live action feature film

- Continued exploitation in perpetuity of the content developed and produced and production of new content based on the Pashupatinath area – a Unesco World Heritage site

22. Mr Doshi told us, and we accept, that the SEIS proposal documents had been created for the purposes of meeting HMRC's requirements. Nevertheless, we find that the SEIS proposal documents also demonstrate the intentions of the Appellants at that time. We find that, as at August 2017, the Eighth Appellant's intention was to develop and produce an animated feature film, a live action feature film and a TV series.

23. Although the production plan refers to the "production of new content" we find, on the balance of probabilities, that this aspect had not been considered in any great depth at the time the SEIS proposal document was created. Due to the lack of detail or description as to what this new content would consist of, we find that "new content" (i.e., content other than the live and animated films and the tv series) was not a major aspect of the Eighth Appellant's plans in August 2017.

24. Our finding in this regard is supported by the "Business Description" in the Eighth Appellant's SEIS proposal, which refers exclusively to the various stages of film production, and not to the production of other types of audio visual content:

Business Description

The audio-visual content production business has 3 main stages

– Development

– Production

– Sales & Distribution

At the completion of each stage there will be an option available to sell out or continue.

For Example:

a) Very often producers develop content and then sell it to someone else to produce it. The producer makes a profit on the development of the project. The producer also may retain rights to produce sequels or may sell all future rights as well in the concept. The producer may or may not retain a share of future profits.

b) Often Producers produce the film and then sell it outright to a distributor. In such a case the producer may have developed the film or purchased a pre-developed film. He would then have actually produced the film. He would then have decided to sell it outright to a distributor with or without a share of future profits.

c) Certain producers do not believe in selling their content at any stage. They would develop a project, take advances from distributor for making the content or would put in their own equity for making the content. They would then get the distributor to release the film and they would enjoy all the receipts of the film after paying a commission of between 15-20% to the distributor. In such a case the Producer takes all the risk from the beginning to the end. If the film does not perform well at the box office, the distributors will ask the Producer for refund of the minimum guarantee distribution advance.

This business plan contemplates a strategy similar to (C) in the example above. However, the shareholders may at any time decide to change the strategy.

> The producer will present each strategy at each point in the 3 stages of a film and the shareholders would accordingly decide which approach they would want to take.

25. In addition, there are projected accounts in the SEIS proposal document. The projected profit and loss accounts refer to the "sale of film rights", and the amortisation of "Film/TV production costs" and "film/TV development". There are no references to other types of audio-visual content.

26. In the cashflow projections, the £150,000 equity investment was the only income projected for the Eighth Appellant in Year 1. Of this £150,000, the Eighth Appellant projected that it would spend £135,000 on "Film / TV development costs" with £10,000 on general and administrative expenses, and £5,000 unspent. We accept that the Eighth Appellant's plans have changed subsequently, but at August 2017 we consider it clear that the Eighth Appellant was focussed mainly (if not solely) on the development of an animated and/or live action film and (possibly) a TV series, and it had no intention of devoting resources to any other enterprise.

27. The cashflow projections also show that the Eighth Appellant expected income of £5,000,000 in Year 3 (including a loan against tax credits), of which £4,850,000 would be spent on "Film/TV production costs" and the remaining £150,000 on general and admin expenses. In Year 4 the Eighth Appellant expected income of £1,250,000 from "Film/TV Distribution residual revenue on release" and tax credits. The Eighth Appellant's outgoings in Year 4 are very similar to Year 1 (save for the repayment of the tax credits loan). Again, the Eighth Appellant intended to spend £135,000 on "Film / TV development costs".

28. The other expenditure in Year 4 was £5,000 on general and administrative expenses, a reduction from Year 1. No income was projected for Years 5 or 6, with the only expenditure being £5,000 each year on general and administrative expenses. Mr Doshi told us that he would only be paid for his own work once the appellants had the funds to pay him, and that, as the appellants developed, then staff could be taken on in the future.

29. On the basis of these projections, we find that the Eighth Appellant's intentions in August 2017 were to develop a film in 2018, to be produced and distributed in 2020, and (assuming the hoped for revenue was achieved) to develop a further film in 2021.

HMRC's response to the First advance assurance applications

30. On 18 September 2017, HMRC replied to the agent, stating that on the basis of the information provided in the advance assurance application, they would be able to authorise the Eighth Appellant to issue certificates to its investors, following receipt of a properly completed form SEIS1.

31. On 2 October 2017, the remaining eight Appellants were incorporated.

The remaining Advance Assurance Applications

32. Under cover of a letter dated 23 October 2017, advance assurance applications were made together to HMRC by the First to Seventh Appellants, Ninth and Tenth Appellants. (The application form for the First Appellant is dated 23 October 2017; the remaining application forms are dated 23 November 2017 but we find this later date is a typographical error.) In the covering letter, the agent for the Appellants referred to the application made by the Eight Appellant and made clear that

> … these new applications follow the same format.

33. Each of these appellants also intended to raise approximately £150,000.

34. Each of these appellants also provided a SEIS proposal document. These proposal documents were very similar to that of the Eighth Appellant but each appellant's proposal document referred to the religious site in that appellant's name. We find that, in October 2017, the intentions of the First to Seventh Appellants, Ninth and Tenth Appellants were the same as the Eighth Appellant's intentions in August 2017: to develop a film in 2018, produce and distribute that film in 2020, and (assuming the hoped for revenue was achieved) to develop a further film in 2021.

35. On 24 October 2017, Mr Doshi was replaced as director of A & Co Film Rentals Limited by Mr Vineet Malhotra, a friend of Mr Doshi who was a producer at the Prime Focus group of companies and also a second cousin of Mr Namit Malhotra, the founder and CEO of the Prime Focus group.

36. On 26 October 2017, Mr Doshi was appointed director of a company called Aashni Holdings plc. This company is a holding company for the fashion house of Mr Doshi and his wife.

HMRC's response to the remaining Advance Assurance Applications

37. On 17 November 2017, HMRC confirmed that, on the basis of the information provided, authorisation would be given to the First to Seventh Appellants, Ninth and Tenth Appellants to issue certificates to their investors.

38. On 11 January 2018, A & Co Film Rentals Limited changed its name to Ramayana the Film Limited.

Information given to the potential investors in the Appellants

39. On unknown dates in or prior to January 2018, Mr Doshi spoke to people who he believed would be interested in investing in one or more of the ten Appellants. These potential investors were friends of his, including Mr Hindocha, Mr Vineet Malhotra and Mr Namit Malhotra. Mr Doshi stated that the investors were attracted to the credibility of the proposal and the (orally delivered) business plan made sense to them; he had not provided any of the investors with an explanation of the benefits of SEIS. In the case of Mr Hindocha (at least) an explanation of how SEIS operated would not have been needed.

40. After learning of the investment opportunities from Mr Doshi, Mr Hindocha also spoke to his clients about the possibility of investing. Mr Hindocha told us that he trusted Mr Doshi to carry out this venture, and that his clients trusted him; those clients also took the view that if Mr Hindocha had invested personally (as he did in three of the appellants) then they would also invest in one (or more) of the appellants. Mr Hindocha told us, and we accept, that it was not necessary to explain SEIS to his clients as they were already experienced investors. Mr Hindocha told us, and we accept, that if a client had not previously invested in a SEIS venture, he would have explained, face to face, what such an investment involved.

41. No documents were prepared for the specific purpose of attracting investors and, before us, Mr Doshi was unable to recall precisely what documents were provided to potential investors. Mr Doshi initially suggested that the SEIS proposal document sent to HMRC was a collation of the oral discussions with potential investors but subsequently stated that the SEIS proposal document had been emailed to (at least) some of the investors after they had committed to investing. We find the latter version is correct; this accords with Mr Hindocha's recollection that he had later received a copy of the SEIS proposal document.

42. At another point in his evidence Mr Doshi suggested that the only written document that would have been provided to the investors was a list of the temples. We find, on the balance of probabilities, that a list of temples was provided to the investors prior to their investment, to enable them to choose, and that some investors also received the SEIS

proposal document after they had either invested, or committed to investing, in one or more of the appellants.

43. By the end of January 2018, Mr Doshi considered that there was sufficient investment for each of the ten appellants, even though not all of the appellants had secured £150,000 worth of commitment. Each of the investors had committed orally to Mr Doshi, which he considered to be sufficient. No funds had passed to any of the ten appellants at this point. The oral agreement between Mr Doshi and the investors was that Mr Doshi could call upon the investor to provide funds (in Mr Doshi's words, he could "draw down") as and when Mr Doshi required the funds. Mr Doshi did not consider it was sensible for the investment funds to be sitting in a bank account until required.

Appellants' strategy for undertaking the development work

44. Mr Doshi told us, and we accept, that he had no intention to recruit staff for the appellants while they were still at the development stage. Mr Doshi's intention was to oversee work that the appellants sub-contracted to other companies and individuals. When pushed in cross-examination to say how many staff might be taken on in future, Mr Doshi suggested that the appellants could ultimately have worldwide scope, earning billions. While it is admirable not to be confined by other people's expectations, we do not find it credible that each of the ten appellants would have income (or turnover) in the £billions.

45. On the basis of the projections in the SEIS proposal documents, we find that none of the appellants had any intention to take on any staff in (at least) the first six years. If there had been such an intention, the projected costs would have increased to take account of staff costs. The development costs remained static, and (with the exception of Year 3) the general and administrative expenses decreased from Year 1 to Year 2, and then remained static. The only year in which the general and administrative expenses were projected to increase was in Year 3. On the balance of probabilities, we find that this increase was due to the potential additional costs related to production and distribution, and did not relate to any intention to take on any staff.

46. Mr Doshi told us, and we accept, that his strategy for the appellants was to use his relationships to obtain the best teams to do the work required at the best price possible. As set out in Mr Hindocha's witness statement, Mr Doshi was explicit to the investors about his intention to use the Prime Focus group of companies to undertake work for the appellants. Mr Hindocha stated:

> As part of the business plan discussions Anshul Doshi informed me he would get the Prime Focus Group to do the work for all the companies so he could get economies of scale. … I took comfort from the fact that Prime Focus was involved so even if changes were needed, or more work needed, with Anshul Doshi's relationship with Prime Focus our money would go further than it would if we had just anyone else.

47. Mr Doshi also drew on his contacts outside the Prime Focus group of companies. One of Mr Doshi's good friends is the Chairman of a Dubai based company called Eros International. On unknown dates Mr Doshi approached this friend. On 8 February 2018, Eros International wrote to each of the First, Third, Fourth, Seventh, Eighth, Ninth and Tenth Appellants. (We find on the balance of probabilities that similar letters were also written to the Second, Fifth and Sixth Appellants.) These letters have similar wording but in each letter the heading reflects the religious site that is in the name of the respective appellant. In its letter to the First Appellant, Eros wrote:

> Re: Proposed Film entitled "THE GOLDEN TEMPLE" ("the Film") – Letter of Intent (Subject to Contract)

> We are pleased to confirm that subject, inter alia, to the fulfilment of the conditions precedent detailed below, Eros Worldwide FZ LLC, or one of our subsidiary companies ("Eros") is prepared, in principle to provide funding of up to INR 25-50 Crores, or the UD$ equivalent thereof, towards the financing of the production of the proposed Film.
>
> The conditions precedent includes (but are not limited to):
>
> 1) Our acceptance of the final script for the proposed Film;
>
> 2) Our confirmation and acceptance of the star cast for the proposed Film.

48. Mr Doshi told us that the appellants did not intend only to make a film and that each appellant intended to create audio-visual content that could (with updates) be used indefinitely to promote the relevant religious site. We accept that this is Mr Doshi's intention in 2023 but we find, on the balance of probabilities, that each of the appellants' intention in February 2018 was to develop a film (and then another film and/or TV series). We conclude that the appellants' film development intentions were what caused Eros to refer to a "proposed Film" in its letters. Eros's reference to a "star cast" also reflects the appellants' earlier intention, as set out in the SEIS proposal document, to develop a live action film. Mr Doshi told us that the letters from Eros were obtained for the purpose of showing them to the bank so that the appellants could each open a bank account. We accept that the letters from Eros were used for this purpose but we consider that the letters would have been phrased differently if the appellants' primary intention at this time was to make something other than a film.

49. On 20 March 2018, each of the appellants opened a bank account. According to the SEIS compliance statements, each of the appellants also began development work on this date.

The writing agreements

50. Mr Doshi told us, and we accept, that he intended to commission a script which could be used as the basis for developing the relevant artwork. This is corroborated by Mr Hindocha's witness statement:

> Anshul informed me that the easiest form of research would be to get Vikram Tuli to produce a script for each Company which the Company would own.

51. Mr Doshi told us, and we accept, that the process for each appellant was the same but, as each appellant was concerned with a different religious site, the content of the research was different. We accept Mr Doshi's statement that each site had its own gods and legends, so the content for each of the appellants' productions would be different, with each temple having a different look and feel. Mr Doshi told us that he intended to use the script and artwork that each appellant commissioned in order to pitch to the relevant temple complex; we comment on this further below.

52. On 20 March 2018, the appellants (with the exception of the Seventh Appellant) each entered into a writing agreement with a Mr Vikram Tuli, a writer who was known to Mr Doshi. Mr Doshi told us that he was unsure whether there had been eight or nine agreements with Mr Tuli. On the basis of the documents in the bundle we find that there were nine agreements. We find that there was no writing agreement between Mr Tuli and the Seventh Appellant. Instead, on an unknown date, the Seventh Appellant engaged another writer (see below).

53. The recital to the agreement between Mr Tuli and the First Appellant provided:

> The Company wishes to engage the Writer to write the screenplay for the proposed film provisionally entitled "The Golden Temple" (the "Film") and the Writers have agreed to provide screenplay and dialogue services (the "Services") as the Writers of the Film in accordance with this Agreement. Literary materials and all other products of the Services are referred to collectively in this Agreement as the "Work".

54. The recitals to the other eight agreements were in very similar terms, with the relevant religious site replacing the Golden Temple. Under each agreement, Mr Tuli was required to produce a first draft, and then a final draft, of a screenplay. Each agreement provided for the remuneration of Mr Tuli (confusingly described in the plural as the "Screenplay Writers) as follows:

> **3. Remuneration**
>
> 3.1. The company shall pay to the Screenplay Writers a consolidated writing fee for the Film of [Thirteen thousand and five hundred pounds] (£13,500). The said fee will be payable as to:
>
> 3. 1. I .Five thousand pounds [£5000] as an advance payment on the execution of the Agreement on the execution of the contract.
>
> 3.1.2.Eight thousand and five hundred pounds [£8,500] in such instalments as the Company shall determine acting reasonably, but in any event :
>
> GBP 3500 on delivery of first draft of the screenplay.
>
> GBP 5000 on delivery of final draft of the screenplay.

55. On the basis of this clause of the contract we find that, upon entering the contract, Mr Tuli was entitled to £5,000 from each appellant with which he engaged.

56. Meanwhile, on an unknown date in April 2018, Mr Doshi stepped down from being COO of Prime Focus World, and he became CEO of his wife's business, Aashni & Co. Limited. However, Mr Doshi's involvement with the Prime Focus group of companies did not end as he became Business Affairs Advisor to Prime Focus Limited, with his services provided through his wife's business. In this new role, Mr Doshi was still involved at board level in the key strategic business decisions taken by Prime Focus.

The first share issue

57. From late March 2018, the investors began making payments into the bank accounts of the ten appellants.

58. On 5 April 2018, the First, Second and Ninth Appellants issued £1 shares to investors as set out in the table below. No other appellant issued shares at this date.

59. The three appellants which issued shares were also the three appellants in which Mr Doshi had invested personally. Mr Doshi told us, and we accept, that he had chosen to invest in these three appellants because of personal connections he had to these three sites, over and above his family connection to all ten sites. Mr Doshi told us, and we accept, that the other investors knew he had only invested in those three appellants.

60. There was no discussion before us of how Mr Doshi would choose which appellant would issue shares at which date. Under challenge by HMRC, Mr Doshi did not accept that he might be seen as having a bias to the three companies in which he had personally invested. Mr Doshi told us that he had a good reputation and that his word was his bond.

61. The shares issued on 5 April 2018 were as follows:

Appellant	Number of £1 shares issued on 5 April 2018
First Appellant	124,831
Second Appellant	129,100
Ninth Appellant	123,800

62. The First Appellant's bank statements show that deposits totalling £81,381 were received between 26 March and 4 April 2018. Further deposits totalling £23,500 were received between 6 and 17 April 2018.

63. The Second Appellant's bank statements show that deposits totalling £24,000 were made between 27 March 2018 and 5 April 2018. A further deposit of £15,000 was received on 6 April 2018.

64. The Ninth Appellant's bank statements show that deposits totalling £52,600 were made between 4 and 5 April 2018. Further deposits totalling £30,200 were received on 6 April 2018.

65. As is obvious, the amount of the direct deposits is insufficient to pay for the shares issued on 5 April 2018. However, although no other appellant issued shares in April 2018, the other seven appellants also received deposits in late March and early April 2018. There was a mass re-allocation of payments on 19 April 2018:

- £30,000 was transferred to the First Appellant from the Third Appellant. This sum had been received by the Third Appellant on 5 April 2018.
- £90,100 was transferred to the Second Appellant in six separate payments from the Fourth, Seventh, Eighth and Tenth Appellants. The transfers from the Fourth and Seventh Appellant had been received by those Appellants on 5 April 2018. The transfers from the Eighth and Tenth Appellants had been received by those Appellants on 6 April 2018.
- £41,000 was transferred in four separate payments from the accounts of the Fourth and Fifth Appellants to the Ninth Appellant. The transfer from the Fourth Appellant had been received by that Appellant on 5 April 2018. The transfers from the Ninth Appellant had been received by that Appellant on 6 April 2018.

66. Mr Doshi suggested these mis-directed payments were the fault of the bank. We note that at least one of the payments was from Mr Doshi himself. While it seems incredible that a bank would, on several different dates, direct so many separate payments to accounts that were incorrect yet were still accounts controlled by Mr Doshi, we accept Mr Doshi's explanation that this was a bank error. We consider it unlikely that so many of the investors, all of whom were said to be experienced investors, would not have known how to make a bank transfer or would, by mistake, direct a payment to an account that just happened to be an account operated by another appellant.

67. The total amount paid into the First Appellant's account (either by direct deposit or by transfer) exceeded (by £10,000) the total shares issued in this share issue. This amount was carried over to the second share issue. The total amounts paid into the accounts of the Second and Third Appellants respectively (by direct deposit and transfer) matched the value of the shares issued by each of these appellants.

Payments to other companies with which Mr Doshi was involved

68. On 4 and 5 April 2018, the First and Sixth Appellants transferred a total of £92,000 to Aashni & Co Limited. The reference in the bank statements of these appellants states "purpose-loan". At one stage Mr Doshi told us that Aashni & Co Limited would have paid liabilities of these appellants in advance so the payments on 4 and 5 April 2018 would have been the repayment to Aashni & Co. Limited of those advanced sums. However, there was no evidence of the First or Sixth Appellants having incurred any liabilities by 5 April 2018. In cross-examination Mr Doshi denied that these transfers reflected Aashni & Co using the funds of these appellants for another project, although he also described the situation of funds flowing between accounts as a temporary mechanism which helped with issues such as cashflow: one company "helping out" another.

69. We consider that, if Aashni & Co Limited had paid liabilities of £92,000 of any of the appellants before those appellants had their own bank accounts or funds, then there would have been no reason for Aashni & Co Limited later to have returned that £92,000 to the First and Sixth Appellants. On the basis that the £92,000 was returned to the First and Sixth Appellants (on 7 January 2019, with the bank statement reference: "return of adv project cancelle") we find that the First and Sixth Appellants loaned £92,000 to Aashni & Co Limited so that Aashni & Co Limited could use this sum for its own, unrelated, purposes.

70. Meanwhile, on 30 May 2018, Mr Bhagnani was appointed as a director of Ramayana the Film Limited.

The animation development agreements

71. On 19 April 2018, each of the appellants entered into an Animation Development Agreement with Prime Focus MEAD FZ LLC, a company in the Prime Focus group of companies registered in Abu Dhabi. The agreements were in very similar terms with the variations only to refer to the title of the relevant appellant or the relevant religious site.

72. The recital to the agreement with the First Appellant provided:

> (A) Company has been engaged by Producer [the First Appellant] to provide animation services (as defined below) to Producer, in connection with The Development Phase, comprising 2D artwork production for lead characters and a location for an animated feature film provisionally entitled 'The Legends of Golden Temple Limited' (the "Film") on the terms and conditions set out in this Agreement.

73. On the basis of this recital (and the near identical recitals in the agreements of the other nine Appellants) we find that the primary intention of the ten appellants in April 2018 was still to develop and produce an animated feature film.

74. The terms of the agreement with the First Appellant provided that the First Appellant would pay Prime Focus MEAD FZ LLC £120,000 for the "Services" upon receipt of a valid invoice.

75. In each agreement the "Services" were defined as:

> services consisting of art direction, concept design and 2 minute animated teaser to be provided by Company to [the relevant appellant], as more particularly described in Schedule A hereto;

76. Schedule A, in its entirety, provided:

> Schedule A
>
> SERVICES
>
> Scope of Work for the "start" phase for 'Legend of Golden Temple':

Legend of Golden Temple to supply:

1. Script

PFA to supply:

Final Production 2D Artwork for Lead Characters (max. 4):

Final Production 2D Artwork for 1 Key Sets/Location - TBD

2 minute animation teaser

77. The agreement provided that Prime Focus MEAD FZ LLC was to provide the services within three months of commencement of the agreement, i.e., by 19 July 2018, unless a later date was agreed in writing between the parties. We were not referred to any copy agreement demonstrating a later date had been agreed; however, as each appellant was required to provide Prime Focus MEAD FZ LLC with a script, we find that the services to be provided by Prime Focus MEAD FZ LLC could not be provided until that script was complete.

78. Under challenge by HMRC, Mr Doshi defended the paucity of the Schedule and asserted that it was common for the details to be agreed between parties as matters progressed. We accept that arrangement was possible between Mr Doshi and Prime Focus MEAD FZ LLC but only because of Mr Doshi's close relationship with companies in the Prime Focus group. We do not consider that unconnected parties acting at arm's length would be willing to enter into such a vague arrangement.

79. On 7 May 2019, Prime Focus MEAD FZ LLC and the First Appellant entered into a novation agreement with Prime Focus Technologies Inc., agreeing that Prime Focus Technologies Inc. would take over the rights and responsibilities of Prime Focus MEAD FZ LLC under the Animation Development Agreement reached with the First Appellant. This was said to take effect from 13 July 2018. Each of the other appellants entered into identically worded novation agreements.

80. The bank statements provided do not identify the payments to the Prime Focus group companies as clearly as payments made to other recipients. In addition, there are no invoices from either Prime Focus MEAD FZ LLC or Prime Focus Technologies Inc. in the bundle. However, by process of elimination, we find that the following payments were made by the appellants to companies in the Prime Focus group:

Appellant	**Dates of payment to the Prime Focus group**	**Amount paid**
First	17 July 2018	£40,000
	9 January 2019	£80,000
	Total paid by First Appellant	*£120,000*
Second	17 July 2018	£120,000
	Total paid by Second Appellant	*£120,000*
Third	13 July 2018	£50,000

	2 August 2018	£28,500
	15 May 2019	£15,000
	Total paid by Third Appellant	*£93,500*
Fourth	13 July 2018	£60,000
	2 August 2018	£28,500
	15 May 2019	£31,500
	Total paid by Fourth Appellant	*£120,000*
Fifth	3 August 2018	£4,750
	15 May 2019	£56,750
	Total paid by Fifth Appellant	*£61,500*
Sixth	13 July 2018	£30,000
	16 January 2019	£12,000
	10 May 2019	£78,000
	Total paid by Sixth Appellant	*£120,000*
Seventh	13 July 2018	£20,000
	15 May 2019	£65,000
	Total paid by Seventh Appellant	*£85,000*
Eighth	15 May 2019	£120,000
	Total paid by Eighth Appellant	*£120,000*
Ninth	13 July 2018	£120,000
	Total paid by Ninth Appellant	*£120,000*
Tenth	13 July 2018	£60,000
	3 August 2018	£3,250
	15 May 2019	£56,750
	Total paid by Tenth Appellant	*£120,000*

81. We find that no payments were made to companies in the Prime Focus group by any appellant after 15 May 2019. We conclude that if, after May 2019, any of the appellants notified Prime Focus Technologies Inc that they required significant changes or any additional work, then such work would have been undertaken by Prime Focus Technologies Inc. without further payment.

82. We also find that three of the appellants did not make full payment to the Prime Focus companies. Those are the three appellants that did not achieve the full £150,000 of investment originally sought. The contracts show that the work required by these three appellants was identical to the work required by the seven appellants who paid in full. We find, on the balance of probabilities, that the Prime Focus group of companies was willing to accept lesser payment from these three appellants only because of the relationship between that group and Mr Doshi, and only because the remaining seven appellants paid in full.

Payments to Mr Tuli

83. Mr Doshi told us that he had directed payments to Mr Tuli when he was happy with the draft scripts Mr Tuli had produced. We find that this statement applied to the payments under clause 3.1.2. of the writing agreement because, as found above, Mr Tuli was entitled to an initial payment of £5,000 from each appellant (other than the Seventh Appellant) as soon as he entered into the writing agreements.

84. Payments to Mr Tuli were made on five different dates.

85. The bank statements before us show that some of the appellants paid Mr Tuli more than others and more than the agreed amount, while other appellants paid less than the agreed amount. The relevant payments are shown in the table below:

Appellant	**Dates of payment to Mr Tuli**	**Amount paid**
First	12 July 2018	£11,025
	12 July 2018	£7,525
	18 September 2018	£6,025
	Total paid by First Appellant	*£24,575*
Second	18 September 2018	£6,025
	2 July 2019	£7,535
	Total paid by Second Appellant	*£13,560*
Third	12 July 2018	£7,525
	2 July 2019	£6,035
	Total paid by Third Appellant	*£13,560*
Fourth	15 May 2019	£2,530
	Total paid by Fourth Appellant	*£2,530*
Fifth	16 July 2018	£7,525
	2 July 2019	£6,035
	Total paid by Fifth Appellant	*£13,500*
Sixth	12 July 2018	£7,525
	Total paid by Sixth Appellant	*£7,525*
Eighth	-	-
Ninth	12 July 2018	£7,525
	18 September 2018	£5,025
	10 May 2019	£1,030
	2 July 2019	£1,035
	Total paid by Ninth Appellant	*£14,615*
Tenth	-	-

	Total received by Mr Tuli	***£89,925***

86. The total amount due to Mr Tuli from the nine appellants who engaged him was £121,500. However, as can be seen from the table above, by September 2022 (when the bank statements end), Mr Tuli had received only £89,925 in total. In addition, only seven of the nine appellants who contracted with Mr Tuli made payments to him.

87. Looking at the dates of the payments made to Mr Tuli compared to the Prime Focus group, it seems that in some cases the payments to Prime Focus were made significantly in advance of any work being undertaken by Prime Focus. For example, the Second Appellant did not pay anything to Mr Tuli until 18 September 2018, suggesting that the Second Appellant entered into its contract with Mr Tuli on 18 September 2018. The Second Appellant's final payment to Mr Tuli was not made until 2 July 2019, indicating that the script was not approved until that date. However, that is almost a year after 17 July 2018, the date on which the Second Appellant paid Prime Focus. There is a similar pattern to the payments made by the Ninth Appellant with Prime Focus being paid in full just one day after the first payment to Mr Tuli. We make our findings in respect of the payment for the Seventh Appellant's script below but that payment was almost two years after the final payment to Prime Focus. However, for other appellants, such as the First and Sixth Appellants, the pattern of payments shows that Mr Tuli was paid in advance of the payments to Prime Focus, as would be expected (albeit Mr Tuli was not paid in full by the Sixth Appellant).

88. Significantly, the Eighth and Tenth Appellants did not pay anything at all to Mr Tuli. The bank statements do not show any reimbursement as between the nine appellants who engaged Mr Tuli.

89. The parties did not address us on the lack of payment by the Tenth Appellant to Mr Tuli.

90. Before us Mr Doshi accepted that the Eighth Appellant had not yet paid Mr Tuli. Mr Doshi also told us that the head priest of the Pashupatinah Temple had changed and the new priest had not yet agreed with the approach taken in the script written by Mr Tuli. On the basis of that explanation, we find:

- another of the appellants must have made the initial payment of £5,000 to Mr Tuli that was due from the Eighth Appellant once Mr Tuli had entered into the agreement with the Eight Appellant,

- Mr Tuli had provided the Eighth Appellant with (at least) a first draft of the script he had been engaged to write, and

- the development work undertaken by the Eighth Appellant could not progress further because the approach taken in the script written by Mr Tuli had not been approved by the head priest of the Pashupatinath Temple, but despite that

- the Eighth Appellant had paid Prime Focus in full for the work to be undertaken.

91. Meanwhile, in August 2018, Mr Doshi had had an informal discussion with the then head priest of the Pashupatinath Temple, who was a good friend of his. However, Mr Doshi did not make a formal approach and he did not contact any of the other nine temples. Mr Doshi told us that he needed to have the material first, before making his approach, as he could not go to a temple with a half-baked idea, he needed a "fully baked" concept.

92. On 13 August 2018, the Seventh Appellant transferred £12,000 to Zaak Properties Limited (a company controlled by Mr Doshi, see above). Mr Doshi told us, and we accept,

that this was a loan that was reversed at a later date. The bank statements confirm the return of the £12,000 to the Seventh Appellant on 26 March 2019.

The agreements with Eyka

93. On an unknown date, each of the ten appellants entered into an agreement with a company called Eyka Films FZ LLC ("Eyka"). We were not provided with a copy of any of those agreements but, in the bundle before us, were ten invoices, one from Eyka to each appellant.

94. Each of these invoices was issued on 4 October 2018. The invoices were numbered sequentially, being 1-10 of 2018. Each invoice was stated to be for:

> Production supervision for Film Development

but no further detail was provided. Each invoice was for the sum of £12,500.

95. On the basis of the bank statements in the bundles we find the following payments were made to Eyka:

Appellant	**Dates of payment to Eyka**	**Amount paid**
First	15 October 2018	£8,025
	13 May 2019	£4,530
	Total paid by First Appellant	*£12,555*
Second	13 May 2019	£12,533
	Total paid by Second Appellant	*£12,533*
Third	15 October 2018	£1,775
	15 May 2019	£10,781
	Total paid by Third Appellant	*£12,556*
Fourth	15 October 2018	£10,025
	15 May 2019	£2,530
	Total paid by Fourth Appellant	*£12,555*
Fifth	15 May 2019	£12,500
	Total paid by Fifth Appellant	*£12,500*
Sixth	13 May 2019	£12,500
	Total paid by Sixth Appellant	*£12,500*
Seventh	15 October 2018	£1,775
	13 May 2019	£13,534
	13 May 2019	£10,781
	Total paid by Seventh Appellant	*£26,090*
Eighth	23 November 2018	£7,780
	13 May 2019	£4,780
	Total paid by Eighth Appellant	*£12,560*
Ninth	15 October 2018	£5,025

	13 May 2019	£7,530
	Total paid by Ninth Appellant	*£12,555*
Tenth	23 November 2018	£1,030
	13 May 2019	£13,534
	13 May 2019	£11,532
	Total paid by Tenth Appellant	*£26,096*
	Total received by Eyka	***£152,500***

96. There were no invoices in the bundle to support the additional payments made by the Seventh and Tenth Appellants to Eyka. We were not addressed on why the Seventh and Tenth Appellants paid Eyka approximately twice the amount agreed for the film development production supervision services Eyka provided.

97. As the final payments to Eyka were made on 13 and 15 May 2019, we find on the balance of probabilities, that the work undertaken by Eyka was concluded, or largely concluded, by mid-May 2019.

The second share issue

98. On 31 December 2018, the First, Second, Third, Fourth, Sixth, Ninth and Tenth Appellants issued £1 shares to investors as follows:

Appellant	Number of £1 shares issued on 31 December 2018
First Appellant	19,000
Second Appellant	3,800
Third Appellant	90,237
Fourth Appellant	111,800
Sixth Appellant	51,558
Ninth Appellant	26,200
Tenth Appellant	67,770

99. As found above, the amounts paid into the First Appellant's bank account (either directly or due to the re-allocation of sums on 19 April 2018) around the time of the first issue of shares, exceeded by £10,000 the value of the shares issued on 5 April 2018. The First Appellant's bank statements show that two further deposits totalling £9,000 were made on 18 July 2018.

100. The Second Appellant's bank statements show that no further deposits from investors were made between 19 April 2018 and 1 May 2019. However, an amount of £3,800 was transferred from the Ninth Appellant on 21 May 2019; this appears to be funded from a deposit of £10,000 made to the Ninth Appellant on 17 May 2018.

101. The Third Appellant's bank statements show that between 4 April and 31 December 2018, the Third Appellant received deposits of £120,237. As found above, £30,000 of this was transferred to the First Appellant on 19 April 2018, so £90,237 remained.

102. The Fourth Appellant's bank statements show that between 4 April and 31 December 2018, the Fourth Appellant received deposits of £161,800. As found above, on 19 April 2018, £45,000 of this was transferred to the Second Appellant, and a further £5,000 was transferred to the Ninth Appellant, so £111,800 remained.

103. The Sixth Appellant's bank statements show that between 27 March and 31 December 2018, the Sixth Appellant received deposits of £51,558.

104. The Ninth Appellant's bank statements show that further deposits totalling £30,000 were made on 17 May and 4 June 2018. As found above, of this total, an amount of £3,800 was transferred from the Ninth Appellant on 21 May 2019 so the amount deposited with Ninth Appellant was £26,200.

105. The Tenth Appellant's bank statements show that between 27 March and 31 December 2018, the Tenth Appellant received deposits of £97,770. As found above, £30,000 of this was transferred to the Second Appellant on 19 April 2018, so £67,770 remained.

The third share issue

106. On 5 April 2019, all the appellants except the Ninth Appellant, issued £1 shares to investors as follows:

Appellant	Number of £1 shares issued on 5 April 2019
First Appellant	6,169
Second Appellant	17,100
Third Appellant	32,595
Fourth Appellant	38,200
Fifth Appellant	112,612
Sixth Appellant	98,442
Seventh Appellant	114,556
Eighth Appellant	150,000
Tenth Appellant	82,230

107. The First Appellant's bank statements show the First Appellant did not receive any further deposits by 5 April 2019 but it did receive a deposit of £6,169 on 1 May 2019.

108. The Second Appellant's bank statements show the Second Appellant also did not receive any further deposits by 5 April 2019 but it did receive a deposit of £17,100 on 1 May 2019. A further deposit of £17,100 was received on 3 May 2019 but this second payment was transferred to the Eighth Appellant on 10 May 2019.

109. The Third Appellant's bank statements show the Third Appellant had no further deposits by 5 April 2019 but it received a deposit of £17,583 on 2 May 2019 and a deposit of £15,013 on 14 May 2019. (Two other deposits were reversed.)

110. The Fourth Appellant's bank statements show the Fourth Appellant did not receive any further deposits by 5 April 2019 but it received a deposit of £18,000 on 2 May 2019 and also a deposit of £20,200 on 14 May 2019. (Again, two other deposits were reversed.)

111. The Fifth Appellant had not previously issued any shares. The Fifth Appellant's bank statements show that between 6 and 12 April 2018, the Fifth Appellant received deposits of

£50,900. As found above, on 19 April 2018, £36,000 of this was transferred to the Ninth Appellant, with £14,900 remaining. On 2 April 2019 the Fifth Appellant received a further deposit of £20,000. Between 1 and 3 May 2019, the Fifth Appellant received further deposits totalling £77,712, resulting in total deposits to the Fifth Appellant of £112,612.

112. The Sixth Appellant's bank statements show that the Sixth Appellant did not receive any further deposits by 5 April 2019 but between 1 and 3 May 2019, the Sixth Appellant received further deposits of £98,442.

113. The Seventh Appellant had not previously issued any shares. The Seventh Appellant's bank statements show that on 5 April 2018, the Seventh Appellant received a deposit of £10,100 but that sum was transferred to the Second Appellant on 18 April 2018. On 1 May 2018, the Seventh Appellant received two further deposits totalling £26,000. A further deposit of £10,000 was received on 1 August 2018. No further deposits were received by 5 April 2019. Between 1 and 3 May 2019, the Seventh Appellant received further deposits totalling £78,556. The total deposits received and retained by the Seventh Appellant totalled £114,556.

114. The Eighth Appellant had not previously issued any shares. The Eighth Appellant's bank statements show that on 6 April 2018, the Eighth Appellant received a deposit of £5,000 that, on 19 April 2018, was transferred to the Second Appellant. On 15 November 2018, the Eight Appellant received deposits totalling £10,000. No further deposits were received by 5 April 2019. Between 1 and 3 May 2019, the Eight Appellant received deposits totalling £112,900. On 10 May 2019, the Eighth Appellant received a further deposit of £17,100. The total deposits received and retained by the Eighth Appellant totalled £140,000. This was £10,000 less than the value of the shares that were issued.

115. The Tenth Appellant's bank statements show that no further deposits were received by 5 April 2019. Between 1 and 3 May 2019, the Tenth Appellant received further deposits of £82,230.

116. The total shares issued for the Third Appellant were 122,832, for the Fifth Appellant were 112,612 and for the Seventh Appellant were 114,556. The total shares issued for each of the other appellants was 150,000 each.

A reversed payment to Mr Tuli

117. On 10 May 2019, the Eighth Appellant paid £13,530 to Mr Tuli. However, this payment from the Eighth Appellant was returned on 15 May 2019, and no further payments to Mr Tuli were made from the Eighth Appellant's bank account.

The SEIS applications

118. In June 2019, each of the ten appellants filed SEIS compliance statements for each share issue, as set out in the table below.

119. The statements filed by each appellant confirmed the number of shares issued in each share issue and provided the names and investment of each investor. In addition, the statements provided some detail about each appellant's enterprise, and set out the amount spent by the date of the compliance statement.

Appellant	**Date of SEIS Compliance Statements**	**Total raised**	**Amount spent**
First	3 June 2019	£150,000	£148,007
Second	10 and 14 June 2019	£150,000	£140,447

Third	10 June 2019	£122,832	£115,469
Fourth	10 June 2019	£150,000	£148,028
Fifth	10 June 2019	£112,612	£83,346
Sixth	11 June 2019	£150,000	£141,930
Seventh	11 June 2019	£114,556	£112,929
Eighth	11 June 2019	£150,000	£144,716
Ninth	10 June 2019	£150,000	£143,214
Tenth	10 June 2019	£150,000	£148,010

120. According to the appellants' SEIS Compliance Statements, a total of £1,400,000 was raised by the share issues. (The bank statements demonstrate that £10,000 of the amounts committed to the Eighth Appellant was not paid, so the amount raised was £1,390,000.) Of this amount, £1,326,096 (just over 95%) was said to have been spent by 14 June 2019.

121. Although the SEIS Proposal document and the Advance Assurance applications had referred to the making of films, by June 2019 the appellants' objectives had changed. According to the SEIS compliance statements filed on 3 June 2019 (for the First Appellant):

> The current spend on development will help create visual as well as written material, enabling the business/trade to create multiple forms of content based on these historic places of worship and even allow cinematic liberties to create new legends and stories around these locations.

122. We consider that this does not relate solely to films or a TV series, and is sufficiently broad to encompass other forms of audio-visual content. However, we find that the creation of other forms of audio-visual content could only be a very minor part of the appellants objectives at this time (June 2019) given that by this date almost all the appellants' funds had already been spent on film development. This finding is supported by the appellants' own description (in the relevant box on the SEIS compliance statement) of their activities. Each appellant described its activities as:

> Motion picture production activities

123. In August 2019, Mr Doshi stepped down from being Business Affairs Advisor to Prime Focus Limited. However, Mr Doshi retained his close relationship with the Prime Focus group. Mr Doshi told us, and we accept, that (as at the date of the hearing, March 2023) he would still advise the Prime Focus group.

124. On 23 September 2019, the Eighth Appellant's accountant provided HMRC with a breakdown of the amounts spent by the Eighth Appellant. These amounts were stated as:

> £120,000, paid to Prime Focus as animation / visual development fees,
> £12,500, paid to Eyka as production management fees, and
> £2,216, paid as bank charges, legal fees and accountancy fees.

125. That totals £134,716, which does not match the £144,716 specified in the Eighth Appellant's SEIS Compliance Statement. There is a £10,000 difference in these figures. We note that that £10,000 difference is the amount one investor has yet to pay to the Eighth Appellant in respect of the shares the Eighth Appellant issued to her. We conclude that the

Eighth Appellant spent all of the investment it received (as set out on 23 September 2019) but it did not spend the amount it had specified in the SEIS Compliance Statement.

126. No breakdowns for any of the other appellants were provided to us.

HMRC's rejection of the SEIS applications

127. On 17 January 2020 HMRC refused the First Appellant's SEIS application. On 20 January 2020, HMRC refused the SEIS applications of the remaining nine appellants.

The intervention of Covid-19

128. Mr Doshi told us that the Covid-19 pandemic had slowed the progress of the appellants. We accept that the pandemic was disruptive to all forms of business even the animated film development work that was being undertaken by the appellants. However, 95% of the investment in the appellants had been spent by June 2019. Therefore, we find that there was very limited further development work still to be undertaken by the appellants by March 2020, and so the pandemic could only have had minimal effect on the appellants' development work.

129. As a result of the changes brought about by the Covid-19 pandemic, Mr Doshi revised the plans the appellants had made in 2017 and 2018. Many of the temples enabled digital praying during the pandemic while the physical site was closed to worshippers. Mr Doshi told us he would still produce an animated feature film but that he considered the future lay both in creating content based on the site and in creating digital content to be exploited in the metaverse. Mr Doshi spoke of consumers using VR headsets or Apple AR glasses, and paying attendance fees to enter a digital temple. When challenged that this change of direction had not been in his previous evidence or in any of the communications with HMRC, Mr Doshi told us that he had not been asked about this, and that HMRC had always maintained that it was the appellants' intentions in 2018 that were relevant.

130. On 24 April 2020, Ramayana the Film Limited changed its name to Legends of Indian Temples (Series 1) Limited ("LITS1") at the suggestion of Mr Doshi. LITS1 intended to make a TV series based upon a number of religious sites across India and Nepal. This is similar to the original intention of the appellants.

131. On 3 May 2020, the President of the ISF wrote to Mr Baweja, as follows:

> As per our discussion, we are here to support and will certainly consider providing full association to your new Venture for promoting Sikh history and significance, past and present as we have over the past 8 years.
>
> We appreciate what you have done in the past with Chaar Sahibzaade and more recently with the Film based on Guru Tegh Bahadur ji and would like to further extend our support to your idea of creating this Venture with sole purpose of creating content dedicated to this purpose including e-books, documentaries, film and series depicting our rich cultural heritage and following the guidelines as have been done in the past.
>
> For our full support and association, we would need 100% assurance from you that such Venture will only be dedicated to the purpose as stated above. This is very important for us.

132. As we set out above, there is no evidence that this letter is intended to refer to any of the work undertaken by the First Appellant. We would have expected a letter written with regard to the First Appellant to be addressed to Mr Doshi, not Mr Baweja.

133. Within the bundle was a draft licence agreement, notionally dated "2021", between LITS1 and the Eighth Appellant. That draft agreement set out that LITS1 intended to

develop and produce a series of ten narrative television programmes based on a select number of renowned Indian temples. The second recital stated that the Eighth Appellant had carried out research relating to the history of the Pashupatinath Temple, described as:

> research relating to the history of the Pashupatinath Temple (Topic Matter) [including, without limitation, a narrative script of approximately 50-60 pages relating to the legend behind the Topic Matter intended to be included in the Programme (Script), concept art created by or on behalf of the Company in connection with the Topic Matter and a selection of photographs and footage relating to the Topic Matter.

134. The draft agreement provided that LITS1 would pay the Eighth Appellant £15,000 for the right to use the research undertaken on behalf of the Eighth Appellant, and for consultancy services that the Eighth Appellant might provide to LITS1. Under this draft agreement, the Eighth Appellant agreed that it would be prevented from using the research itself for two years following the first release of the last programme in LITS1's series.

135. Mr Doshi told us that there would be an agreement for each of the ten appellants but each agreement would be signed only once the fee had been paid, on the basis that the script could not be recovered if it was released prior to the agreement being signed. Therefore, the final agreement would record what had happened rather being an agreement about action to be taken. Mr Doshi told us this was because once the IP had been provided it could not be recovered in the event that payment was not made. The directors of LITS1 in July 2021 were Mr Bhagnani and Mr V Malhotra, both good friends of Mr Doshi. We find this caution on the part of Mr Doshi and the appellants to be a marked change from the lack of specificity in the contracts entered into with Prime Focus MEAD FZ LLC and Mr Tuli.

136. On 8 July 2021, the Eighth Appellant received payment of £15,000 from LITS1 for use of the Eighth Appellant's research about the Pashupatinath Temple.

137. On the basis of the evidence before us, we find that the Eighth Appellant's research could only have been the script that Mr Tuli was contracted to produce (because the Eighth Appellant did not engage with any other writer or researcher) and the "concept art" produced by the Prime Focus companies. We find that by 8 July 2021 – the date of the payment – Mr Tuli must have produced a script concerning the Pashupatinath Temple, as described in the draft contract with LITS1. However, as we have found above, the Eighth Appellant had not made any payment to Mr Tuli (not even the initial payment to which Mr Tuli was entitled upon entering into the contract). Mr Doshi told us that no payments had been made by the Eighth Appellant to Mr Tuli because this particular script had not been agreed by the head priest of the Pashupatinath Temple.

138. In their 2020 accounts, each of the appellants had recognised the receipt of £15,000 from LITS1. When challenged about why the income had been recognised in the 2020 accounts for each appellant when no payment had been made during that accounting period, Mr Doshi said he understood that income should be recognised in accounts as soon as the agreement in principle was reached. Mr Doshi told us that payment had been received by the Eighth Appellant and so an agreement had been signed by the Eighth Appellant. No copy of that final signed agreement was provided to the Tribunal or to HMRC.

139. Mr Doshi told us that he was not concerned that LITS1 had a similar name to the appellants, or that it was producing a TV series using research licensed from the appellants. Mr Doshi viewed LITS1 to be making a TV series, to be viewed on Netflix or YouTube, and he told us he was happy for LITS1 to go ahead with this project as he considered such a series to be distinct from the audio-visual material he intended the appellants would produce. As the appellants' original plans included making a TV series, we find that there was little or

no distinction between LITS1's project and the appellants' original plans but that, by 2021, the appellants' ideas had evolved. Mr Doshi told us that there were vast possibilities for the material he intended to create because each of the temples had so much history. Mr Hindocha had also mentioned merchandise (such as toys, for example the spear of a god, or of creating a game) to be sold from the religious site as a further possibility.

140. In or about 2021, and as a result of the appellants' change of priority, Mr Doshi told us that he asked the Prime Focus group to complete their work in Unreal engine format or to ensure that it was compatible with Unreal engine. Those changes would make it possible for devotees of religious sites to use the Unreal software to access the temple virtually by visiting it in the metaverse. We find that such work would be a significant addition to the work already undertaken by the Prime Focus companies given that, as found above, the appellants' contract with Prime Focus MEAD FZ LLC anticipated an "animated feature film".

141. Mr Doshi told us that the Prime Focus companies did not make any additional charges for this considerable amount of additional work and it was all done "on [his] goodwill". The bank statements demonstrate that no further payments were made by any of the appellants to the Prime Focus group. As recorded in the SEIS Compliance Statements and shown in the appellants' bank account statements, by June 2019, none of the appellants had sufficient funds left to pay for this additional work that they had asked the Prime Focus group to provide.

Writing agreement for Seventh Appellant

142. On 4 March 2021, the Seventh Appellant made a payment of £30,025 to a company called LivingBe Limited for writing services provided by a Mr Aslam Parvaz. This payment was not recognised in LivingBe Limited's accounts. Mr Doshi told us that he did not know why that was the case (and he added that he had not been asked in time to find out) but, he told us, the invoice to the Seventh Appellant had come from this company and so he had paid as directed.

143. Under cross-examination Mr Doshi asserted that there were multiple emails that set out the terms of the writing agreement between the Seventh Appellant and Mr Parvaz but they had not been provided because HMRC had not asked for them.

144. We find that Mr Parvaz was engaged to write the script for the Seventh Appellant. We were not addressed on why the fee for Mr Parvaz was more than twice the fee agreed by each of the other appellants, especially when the Seventh Appellant had less funding than the other appellants and so could least afford to pay most for a script. We were also not addressed on why Mr Parvaz was paid more than eighteen months after the final payments to Mr Tuli.

145. The Seventh Appellant was only able to fund the payment to Mr Parvaz by taking out a Covid-19 bounceback loan. This was paid into the Seventh Appellant's account on 12 October 2020. The Seventh Appellant had raised only £114,556 by way of investment. We make no findings as to how the Seventh Appellant intended to raise additional investment in order to fund the total payments of £162,525 it had committed to pay to Prime Focus, Eyka and Mr Parvaz.

Completion of the development work

146. The SEIS Compliance Statements filed by the appellants in June 2019 state that the majority of the funds raised had already been spent by June 2019, and that the development work was "well under way". As found above, the Covid-19 pandemic could have caused only minor disruption to the appellants' plans.

147. Although the full amount due has (still) not yet been paid to Mr Tuli, at the hearing Mr Doshi told us that there were scripts for each of the appellants, each of about 35 pages.

Under cross-examination, Mr Doshi defended the length of each script on the basis that the script provided the vision and was sufficient for that purpose.

148. In addition, and despite three of the appellants not having paid the full amount to the Prime Focus group, Mr Doshi also told us that the two minute teaser films were complete for each appellant. Neither the scripts, the 2D artwork, nor the animated teasers were produced by the appellants in evidence before us. Mr Doshi said he had not been asked by HMRC to provide these. In the absence before us of any of this work, we are not in a position to make any findings about their content.

149. Mr Doshi told us that once he had the completed work, including the two minute animated teaser, he was able to pitch to the relevant religious sites. This is at odds with Mr Doshi's earlier evidence that he was awaiting the Pashupatinath Temple's head priest's approval of the approach taken in the script before progressing further.

150. Mr Doshi told us that if a temple complex did not like the pitch made then that appellant would have lost everything. However, if the temple complex liked the pitch then that appellant would proceed to make the content. At the hearing Mr Doshi told us he had visited two temples recently, and was due to visit two more. We were not told whether any of these pitches were successful.

151. On the basis of the Eighth Appellant's agreement with LITS1, we find that the Eighth Appellant is unable to use the research it commissioned from Mr Tuli (but has not yet paid for), or the artwork commissioned from Prime Focus, until two years after the first release of the last programme in the LITS1 series. On the basis of Mr Doshi's witness statement, we find that this LITS1 series is not yet complete. We make no findings about the value there would be to LITS1 in an unapproved script or unapproved artwork.

DISCUSSION AND DECISION

152. The appellants are each appealing against the decision to refuse them authority to issue compliance certificates to each of their investors in respect of the investments they made. In such an appeal, the onus is on each of the appellants to demonstrate that they meet the statutory requirements in respect of each issue of shares. The standard of proof is the balance of probabilities.

Relevant legislation

153. It is necessary to refer extensively to legislation. Rather than group that together in an Appendix, we have set out the relevant parts of Part 5A of the Income Tax Act 2007 ("ITA 2007") at the beginning of each part of the decision where it is considered.

154. As an introduction, we start with Section 257AA ITA 2007 which sets out the basic parameters regarding eligibility for SEIS relief. At all relevant times, Section 257AA provided:

> **257AA Eligibility for SEIS relief**
>
> An individual ("the investor") is eligible for SEIS relief in respect of an amount subscribed by the investor on the investor's own behalf for an issue of shares in a company ("the issuing company") if-
>
> (za) the risk-to-capital condition is met (see section 257AAA),
>
> (a) the shares ("the relevant shares") are issued to the investor,
>
> (b) the investor is a qualifying investor in relation to the relevant shares (see Chapter 2),

(c) the general requirements (including requirements as to the purpose of the issue of shares and the use of money raised) are met in respect of the relevant shares (see Chapter 3), and

(d) the issuing company is a qualifying company in relation to the relevant shares (see Chapter 4).

155. Section 257EB explains entitlement to claim SEIS relief. Sub-section (1) provides:

257EB Entitlement to claim

(1) The investor is entitled to make a claim for SEIS relief in respect of the amount subscribed by the investor for the relevant shares if the investor has received from the issuing company a compliance certificate in respect of those shares.

156. Thus, none of the investors in the ten appellants are able to support their claim to SEIS relief on their investment unless those investors can show they have a compliance certificate issued to them by the appellant in which they invested.

The compliance certificates

157. Section 257EC ITA 2007 provides further detail about compliance certificates:

257EC Compliance certificates

(1) A "compliance certificate" is a certificate which-

(a) is issued by the issuing company in respect of the relevant shares,

(b) states that, except so far as they fall to be met by or in relation to the investor, the requirements for SEIS relief (see section 257AA) are for the time being met in relation to those shares, and

(c) is in such form as the Commissioners for Her Majesty's Revenue and Customs may direct.

(2) Before issuing a compliance certificate in respect of the relevant shares, the issuing company must provide an officer of Revenue and Customs with a compliance statement in respect of the issue of shares which includes the relevant shares.

(3) The issuing company must not issue a compliance certificate without the authority of an officer of Revenue and Customs.

(4) If the issuing company, or a person connected with the issuing company, has given notice to an officer of Revenue and Customs under section 257GF, a compliance certificate must not be issued unless the authority is given or renewed after the receipt of the notice.

(5) If an officer of Revenue and Customs-

(a) has been requested to give or renew an authority to issue a compliance certificate, and

(b) has decided whether or not to do so,

the officer must give notice of the officer's decision to the issuing company.

158. Section 257EE provides that HMRC's refusal to authorise the issue of a compliance certificate is an appealable decision. In this case it is HMRC's decisions, taken on 17 January 2020 (for the First Appellant) and on 20 January 2020 (for the remaining appellants), all of which were upheld on review, to refuse to authorise each of the appellants to issue a compliance certificate that are under appeal to the Tribunal.

159. At the conclusion of the hearing Mr Doshi submitted that a letter issued to the First Appellant on 14 October 2019 (prior to the appealable decision) implied that a compliance certificate had already been issued for shares issued on an earlier date. The parties exchanged correspondence on this point following the hearing.

160. The relevant part of the 14 October 2019 letter provided:

> I propose to formally refuse the company to issue compliance certificates in respect of the shares issued. I am aware that the compliance statement for shares issued 14 February 2019 has been approved and I do not propose to withdraw any relief already granted.

161. We conclude that the reference to approval of shares issued on 14 February 2019 was a typographical, or cut and paste, error because no shares were issued by the First Appellant on 14 February 2019. There is also no earlier correspondence from HMRC suggesting a compliance statement made by the First Appellant had been approved. We conclude that this letter of 14 October 2019 cannot be understood as the issue of a compliance certificate for the shares issued by the First Appellant on 5 April 2018, 31 December 2018 and 5 April 2019.

Matters in dispute between the parties

162. HMRC submit that there are three areas where each of the ten appellants do not satisfy the legislative conditions to be granted authority to issue compliance certificates to their investors. HMRC submit that these are that the appellants:

- do not satisfy "the Risk-to-Capital condition" in Section 257AAA ITA 2007;

- do not satisfy "the Trading Condition" in Section 257DA ITA 2007; and

- were engaged in "Disqualifying Arrangements" as set out in Section 257CF ITA 2007.

163. In relation to the Eighth Appellant only, HMRC also submit that the "the Shares Requirement" in Section 257CA ITA 2007 is not satisfied.

164. The appellants submit that they met all legislative conditions and are entitled to issue compliance certificates to their investors to enable those investors to claim SEIS relief.

The Risk to Capital condition in Section 257AAA ITA 2007

165. Section 257AAA applies to shares issued after 15 March 2018, and so applies to all the shares issued here. The relevant parts of Section 257AAA provide:

> **257AAA Risk-to-capital condition**
>
> (1) The risk-to-capital condition is met if, having regard to all the circumstances existing at the time of the issue of the shares, it would be reasonable to conclude that-
>
> (a) the issuing company has objectives to grow and develop its trade in the long-term, and
>
> (b) there is a significant risk that there will be a loss of capital of an amount greater than the net investment return.
>
> (2) For the purposes of subsection (1)(b)-
>
> (a) the risk is to be determined by reference to a loss of capital, and the net investment return, for the investors generally,
>
> (b) the reference to a loss of capital is to a loss of some or all of the amounts subscribed for the shares by the investors, and

(c) the reference to the net investment return is to the net investment return to the investors (whether by way of income or capital growth) taking into account the value of SEIS relief.

(3) For the purposes of subsection (1) the circumstances to which regard may be had include-

(a) the extent to which the company's objectives include increasing the number of its employees or the turnover of its trade,

(b) the nature of the company's sources of income, including the extent to which there is a significant risk of the company not receiving some or all of the income,

(c) the extent to which the company has or is likely to have assets, or is or could become a party to arrangements for acquiring assets, that could be used to secure financing from any person,

(d) the extent to which the activities of the company are sub-contracted to persons who are not connected with it,

(e) the nature of the company's ownership structure or management structure, including the extent to which others participate in or devise the structure,

(f) how any opportunity for investment in the company is marketed, and

(g) the extent to which arrangements are in place under which opportunities for investments in the company are or may be marketed with, or otherwise associated with, opportunities for investments in other companies or entities.

166. We remind ourselves that the relevant time at which we should consider events is the date of the issue of the shares, i.e., 5 April 2018, 31 December 2018 and 5 April 2019.

167. Subsection (3) sets out circumstances to which we should have regard when considering whether subsection (1) is satisfied. Of the matters set out in Subsection (3), HMRC submit, and we agree, that paragraph (c) is not relevant to this appeal.

168. Paragraph (3)(a) is concerned with the extent to which the company's objectives include increasing the number of its employees or the turnover of its trade. We have found that none of the appellants had any intention to take on staff in (at least) the first six years of their existence. We accept HMRC's submission that if the appellants intended to take on staff at a later date then, if one team initially worked for all of the appellants (in preference to each appellant bearing the cost of a separate team), that lent support to HMRC's assertions concerning fragmentation. With regard to the turnover of the appellants, the appellants' financial projections show the appellants intended to develop and produce one film, and subsequently develop another film. We accept HMRC's submission that, given the high risk of failure with each film, this sequential process was not a strategy that could easily lead to the appellants' growth. We also agree that the Eighth Appellant's decision to sell its research (script and artwork) for £15,000 (significantly less than it had projected could be made from production of a film and sales of those film rights) hindered the Eighth Appellant's own growth and turnover.

169. Paragraph (3)(b) is concerned with the nature of the company's sources of income, including the extent to which there is a significant risk of the company not receiving some or all of the income. HMRC accepted that the film and media industries are inherently risky. However, their submission is that the risk to investors is unclear given the investors' option to sell the appellants' development work at a pre-production stage. We accept that submission.

HMRC also submitted that the appellants' loans to other companies controlled by Mr Doshi put the investors' investment at risk, including the risk of delay if the sums could not be returned in good time. While we would ordinarily accept that submission, we do not consider that applies here, where the relationships with Mr Doshi were so close that some of the sub-contractors engaged by the appellants (the Prime Focus group, Mr Tuli and Mr Parvaz) were willing to work either for no remuneration or for severely delayed remuneration.

170. Paragraph (3)(d) is concerned with the extent to which the activities of the company are sub-contracted to persons who are not connected with it. In this case it is clear that almost all of the work of each appellant was subcontracted to companies and individuals connected to the appellants through Mr Doshi. Mr Hindocha's evidence was that the work could not have been achieved for the price without Mr Doshi's connections. We accept HMRC's submission that the use of subcontractors can demonstrate a company's lack of intention to develop its own experience and expertise. Here every aspect of the development work was undertaken by a sub-contractor instructed by the appellants. The appellants had no possibility of developing their own expertise.

171. Paragraph (3)(e) is concerned with the nature of the company's ownership structure or management structure. We consider the incorporation of ten separate companies in more detail below but we accept HMRC's submission that, as each of the appellants is a separate company, they are all in competition with each other within the film and media industries, and also in competition for investment. While Mr Doshi was content to proceed with all ten appellants together despite three not having achieved the investment projected as required, it is unlikely that an independent Third Appellant, Fifth Appellant or Seventh Appellant could have afforded to proceed without having raised the £150,000 in investment it had projected it required.

172. Paragraph (3)(f) is concerned with how any opportunity for investment was marketed. This can be considered with Paragraph (g), which is concerned with the extent to which arrangements are in place under which opportunities for investments in the company are or may be marketed with, or otherwise associated with, opportunities for investments in other companies or entities. We have found that the marketing was by word of mouth, with the only document provided to potential investors before their investment being the list of temples. We accept HMRC's submission that this type of marketing, in the circumstances of these appeals, supports HMRC's contentions concerning artificial fragmentation (set out in more detail below). HMRC also submitted that the misallocated payments in the bank accounts demonstrate that the investors' perception was a lack of separation between the appellants. We have found that the misallocation was the fault of the bank, and so we do not accept this submission is correct.

173. Having looked individually at the circumstances to which we may have regard, we now consider events in the round, looking at all the circumstances together.

174. Mr Doshi submitted that the Risk to Capital condition was met because all of the appellants had the objectives to grow and develop their trade in the long-term, and each development was risky. In respect of the first aspect Mr Doshi submitted that the appellants' intention was to create content in perpetuity; in respect of the second aspect Mr Doshi submitted that there was a significant risk of a loss of capital because if the temple priests did not like the concept proposed then that appellant would not be able to continue.

175. We do not accept it was the intention of any appellant on 5 April 2018, 31 December 2018 or 5 April 2019 to create audio-visual content in perpetuity. We have found that the appellants' intentions prior to June 2019 were to create one (or possibly two) film(s) and (possibly) a TV series. We have found that in June 2019 the appellants considered the

creation of other forms of audio-visual content but it was not until 2021 that Prime Focus were asked to complete their work in Unreal engine format or to ensure that it was compatible with Unreal engine. The plans Mr Doshi described to us concerning the metaverse were not part of any appellant's plans when the shares were issued in 2018 and 2019.

176. We were confused by some of the submissions made on behalf of the appellants with regard to needing the approval of the head priest. Mr Doshi submitted that the head priest of each temple would need to approve the script so each appellant could progress, and that without this permission there could be no audio-visual content. In the case of the Eighth Appellant, Mr Doshi told us that there had been no approval of the research and that this is why Mr Tuli had not been paid. However, Mr Doshi also told us the Eighth Appellant had made a two minute teaser film. We can only conclude from this that the teaser film was made without the approval of the head priest. That suggests that the approval of the head priest is not necessary. Additionally, despite the lack of head priest approval, LITS1 was happy to buy the research commissioned by the Eighth Appellant. We conclude that it was not necessary to have the head priest's permission before making either a TV series or a film about any of the religious sites. The creation of audio-video content in conjunction with the temple could need co-operation but we have not found that this was the intention of any appellant at the time any of the shares were issued in 2018 and 2019. Even in June 2019, after the third issue of shares had already taken place, we have found that the creation of audio-visual content other than film and tv was (in June 2019) only a minor part of what the appellants intended for the future (and presumably only if they recouped their initial investment as only minimal funds remained at that time).

177. Looking at events as a whole, we have concluded that there was no intention on the part of any Appellant to take on staff. It was not part of the financial projections and it would not have made sense to take on staff when the business model was to sub-contract all the work undertaken to contacts of Mr Doshi. A consequence of this is that the appellants did not develop any expertise or experience of their own, and each of the appellants could easily have been replaced by another entity in the arrangements that were set up, with no loss at all to the other participants. We accept HMRC's submission that the Prime Focus group of companies could easily have taken on the appellants' projects in-house. We also conclude that LITS1, remaining under the control of Mr Doshi, could have taken on the limited role played by all ten appellants but for the fact that one company would not have been able to make ten applications for SEIS relief.

Reason for creating ten companies

178. Mr Doshi told us that he had discussed with friends how best to proceed, and he had decided it would be best to proceed with one company for each of the ten temples he had chosen. HMRC challenged the creation of ten appellants, suggesting it would have been possible for one company to have been incorporated, potentially with ten subsidiaries.

179. Both Mr Hindocha and Mr Doshi gave us explanations for why there were ten companies rather than one.

180. Mr Hindocha told us that, from the perspective of an investor, it was necessary for there to be separate companies for each temple because of the emotional connection that many investors felt to specific religious sites. Mr Hindocha told us that some investors wanted their investment to be connected to a specific site, and they did not want their investment to be devoted to another temple or any religious site. HMRC suggested to Mr Hindocha that independence could be achieved with a parent and subsidiary companies, to which Mr Hindocha asked why it should be necessary to create such "monstrous" complexity to achieve

the independence the investors wanted. Mr Hindocha also addressed the rate differential between SEIS and EIS, with his evidence being that this was not a major factor for his clients (and for himself) when deciding on an investment.

181. Mr Doshi's explanation was that he believed it was necessary for there to be separate companies due to his perception about how the head priest or trustees at a specific site would react if a company was engaging with another site, particularly if that was a site of a different religious faith. Mr Doshi told us that even within the same religion, while temples were not in competition with each other, no religious site would want funding to go to another site. Mr Doshi told us that he understood each site had its own rules and restrictions on what could be done. Mr Doshi told us that he considered setting up subsidiary companies of the same parent would not appear sufficiently independent. In cross-examination Mr Doshi accepted that he did not discuss this aspect after consultation with officials at the sites. Mr Doshi also told us that he believed that, after the development stage was concluded, priests would want the companies to be at arm's length because if the priests chose to provide funding in the future (Mr Doshi suggested this was one possible option) they would be reluctant to provide funding that might go to other sites. Mr Doshi refuted HMRC's suggestion that he had used ten companies in order that all ten appellants would each obtain SEIS relief. He stated that obtaining funding was considered long after the concept presented itself, and that a viable idea was what attracted investors.

182. We have considered both explanations very carefully. We accept that Mr Hindocha gave us a truthful account of his perspective as an investor looking at the ten companies that had already been set up by the time he was involved. However, as Mr Hindocha was not involved in the setting up of the appellants, we do not find that his evidence on this point assists us. We accept that, after he had seen how investors reacted to there being ten companies, Mr Hindocha concluded it was preferable for there to be multiple companies, but this after-the-event investor preference does not mean that this was the reason why the ten appellants were created.

183. We have considered Mr Doshi's explanation. There are two aspects: Mr Doshi's understanding of the priests' perception of events at the development stage, and his understanding of the priests' perception at later stages, particularly if the temple might choose to provide funding at the production stage or thereafter. We are only concerned here with the development stage – the structure that might be necessary for future stages is not relevant to the structure chosen for the development stage. We reach that conclusion because the case Mr Doshi presented to us was that the priests would have no or very limited knowledge of the appellants (and, it follows, their funding arrangements) until Mr Doshi met with them to pitch the "fully baked" concept along with the two minute teaser animation. The development stage would be concluded by that time. Mr Doshi would be free to set up a SPV or any other suitable corporate structure to keep funding ring-fenced, in agreement with the priests, once they had approved his pitch.

184. We have considered at length Mr Doshi's explanation of his understanding of what would be important to the priests while the projects were at development stage, i.e., at a time when the priests had little or no knowledge of, or involvement with, the project. We have eventually concluded that the separation of funds for different faiths and temples was not the driver behind setting up ten different companies. We reach this conclusion because, as is evident from our findings about the payments made to and by the appellants at various times, the funding of each appellant was not kept separate. In particular, the First Appellant was the only appellant concerned with a Sikh site. However, the First Appellant paid Mr Tuli considerably more than it was contractually obliged to, and we conclude that the First Appellant subsidised the underpayments to Mr Tuli of the Fourth and Sixth Appellants and

the non-payments to Mr Tuli of the Eighth and Tenth Appellants. These four appellants were all concerned with Hindu sites, so investment into the First Appellant, concerned with a Sikh site, subsidised appellants concerned with Hindu sites. If the May 2020 letter from the ISF to Mr Baweja did concern the First Appellant, then it seems unlikely that the ISF would lend its support to the First Appellant's output if it knew about these cross-subsidies. In addition, the First, Sixth and Seventh Appellants all loaned funds to other companies controlled by Mr Doshi for projects that were completely unrelated to the promotion of either the Sikh or Hindu faiths.

185. We have noted Mr Hindocha's comment that it should not be necessary to create "monstrous" complexity to keep the ten projects' finances separate. While we agree with that sentiment, it is difficult to escape the conclusion that far more complexity was caused here by the creation of ten separate companies. Had there been one parent company, with or without subsidiaries, it is unlikely either that Mr Doshi would have needed to reallocate so many of the investors' deposits after they were transferred into the wrong bank account, or that so many payments between the appellants would have been made and then subsequently reversed.

186. We conclude that HMRC are correct in their submission that there was artificial fragmentation and that this artificial fragmentation was motivated by the desire to obtain more SEIS relief than would have been possible had just one company been set up in place of the ten appellants (or if the work had been undertaken by Prime Focus in-house).

187. The onus is on the appellants to persuade us that the Risk to Capital condition was satisfied as at 5 April 2018, 31 December 2018 and 5 April 2019. We are not so persuaded. It follows that all ten of the appellants' appeals should be dismissed for this reason.

The Trading Condition in Section 257DA ITA 2007

188. The relevant parts of Section 257DA provide as follows:

> **Section 257DA The trading requirement**
>
> (1) The issuing company must meet the trading requirement throughout period B.
>
> (2) The trading requirement is that-
>
> (a) the company, ignoring any incidental purposes, exists wholly for the purpose of carrying on one or more new qualifying trades (see section 257HF),
>
> …
>
> (9) In this section-
>
> "incidental purposes" means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the company in question;
>
> "mainly trading subsidiary" means a qualifying subsidiary which, apart from incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and any reference to the main purpose of such a subsidiary is to be read accordingly;
>
> "non-qualifying activities" means-
>
> (a) excluded activities (within the meaning of sections 192 to 199), and
>
> (b) activities (other than research and development) carried on otherwise than in the course of a trade;

"qualifying trade" has the same meaning as in Part 5 (see sections 189 and 192 to 200).

189. Period B is defined in Section 257AC (3) and (4) as the period beginning with the issue of the shares and ending immediately before the "termination date", which is defined as the third anniversary of the date on which the shares were issued. Therefore, in this appeal, Period B runs from 5 April 2018 until 4 April 2021 for the shares issued in the first share issue, from 31 December 2018 until 30 December 2021 for the shares issued in the second share issue, and from 5 April 2019 until 4 April 2022 for the shares issued in the final share issue.

190. Section 189 sets out the definition of "qualifying trade", as follows:

Section 189 Meaning of "qualifying trade"

(1) For the purposes of this Part, a trade is a qualifying trade if-

(a) it is conducted on a commercial basis and with a view to the realisation of profits, and

(b) it does not at any time in period B consist wholly or as to a substantial part in the carrying on of excluded activities.

(2) References in this section and sections 192 to 198 to a trade are to be read without regard to the definition of "trade" in section 989.

191. The excluded activities are listed in Section 192. The only part that is relevant to this appeal is Section 192(1)(e) which is as follows:

192 Meaning of "excluded activities"

(1) The following are excluded activities for the purposes of sections 181 and 189-

…

(e) receiving royalties or licence fees,

192. Section 192(1)(e) is supplemented by Section 195(4). The relevant parts of Section 195(4) provide:

195 Excluded activities: receipt of royalties and licence fees

(1) This section supplements section 192(1)(e) (receipt of royalties and licence fees).

(2) If the requirement of subsection (3) is met, a trade is not to be regarded as consisting in the carrying on of excluded activities within section 192(1)(e) as a result only of its consisting to a substantial extent in the receiving of royalties or licence fees.

(3) The requirement of this subsection is that the royalties or licence fees (or all but for a part that is not a substantial part in terms of value) are attributable to the exploitation of relevant intangible assets.

(4) For this purpose an intangible asset is a "relevant intangible asset" if the whole or greater part (in terms of value) of it has been created-

(a) by the issuing company, or

(b) …

(5) In the case of an intangible asset that is intellectual property, references to the creation of an asset by a company are to its creation in circumstances

> in which the right to exploit it vests in the company (whether alone or jointly with others).
>
> (6) In this section-
>
> "intangible asset" means any asset which falls to be treated as an intangible asset in accordance with generally accepted accountancy practice,
>
> "intellectual property" means-
>
> (a) any patent, trade mark, registered design, copyright, design right, performer's right or plantbreeder's right, or
>
> (b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a).

193. Therefore, throughout the three years immediately following the issue of shares, each appellant must be carrying on a qualifying trade, and that qualifying trade must not consist (wholly or substantially) of excluded activities. Receiving royalties or licence fees is an excluded activity, unless those royalties or licence fees are attributable to the exploitation of "relevant intangible assets". An intangible asset will be a "relevant intangible asset" if the whole or greater part of it has been created by the relevant appellant.

194. Both parties addressed us at length on whether the appellants had created intellectual property. This aspect is considered below. HMRC also submitted that there was no evidence to show that the appellants had traded throughout Period B, and we start by considering this second point raised by HMRC.

Were the appellants trading on a commercial basis throughout Period B?

195. For the first share issue (relevant to the First, Second and Ninth Appellants), Period B runs from 5 April 2018 to 4 April 2021. As set out above, the "qualifying trade" must be "conducted on a commercial basis".

196. We have found that in or about 2021, Mr Doshi asked the Prime Focus group to complete their work in Unreal engine format, and that this additional work was all done on goodwill. No appellant had sufficient funds to pay for this considerable additional work. This additional work clearly would not have been supplied had it not been for Mr Doshi's close connections to the Prime Focus group of companies. Without Mr Doshi's connections and the willingness of the Prime Focus group to support the appellants, the appellants would have been wholly unable to commission this additional work. A competitor without Mr Doshi's connections could not have acted in this way. We have concluded that the appellants commissioning of services supplied on goodwill, in this way, cannot be considered to be "trading conducted on a commercial basis".

197. We have also considered the bank statements of the First, Second and Ninth Appellants over this period to see if they reveal indications of trading conducted on a commercial basis. If these appellants were trading throughout Period B, we would expect to see activity in the bank accounts for each of the appellants throughout this period. These bank statements run to September 2022 so cover the whole of Period B (for each of the share issues).

198. Looking first at the First Appellant, after the payment in May 2019 to Eyka, the First Appellant made three payments (other than minimum balance charges). The last of these was on 11 February 2020. The last deposit into the First Appellant's bank account was on 1 May 2019. Between 11 February 2020 and 4 April 2021, the only financial activity carried on by the First Appellant was payment of fees to maintain its bank account. The position is similar for the Second and Ninth Appellants. Both the Second and Ninth Appellants paid professional fees on 6 April 2020 but then there was no further activity (other than payment

of fees to maintain the bank account). We do not consider the payment of bank fees to be sufficient to constitute trading. Therefore, for the first share issues, we agree with HMRC that no qualifying trade was carried on throughout Period B.

199. For the shares issued on 31 December 2018 (relevant to the First, Second, Third, Fourth, Sixth, Ninth and Tenth Appellants), Period B runs from 31 December 2018 to 30 December 2021. Other than payment of bank fees, there is no activity in the bank accounts of any of the First, Second, Third, Fourth, Sixth, Ninth or Tenth Appellant's bank account after 6 April 2020. Therefore, for the second share issues, we agree with HMRC that no qualifying trade was carried on throughout Period B.

200. For the shares issued on 5 April 2019 (relevant to all the appellants other than the Ninth Appellant), Period B runs from 5 April 2019 until 4 April 2022. Other than payment of bank fees, there is no activity in the bank accounts of any of the First, Second, Third, Fourth, Fifth, Sixth, and Tenth Appellant's bank account after 6 April 2020. Therefore, for the third share issues, we agree with HMRC that no qualifying trade was carried on by these appellants throughout Period B. (For completeness we note that there was a large payment from the bank account of the Fifth Appellant on 4 December 2019, to a company called Procurewise Consulting Limited. However, we were not addressed on this payment and its relevance to the issues in dispute. We are not satisfied this one payment demonstrates the Fifth Appellant conducted trade on a commercial basis from 5 April 2019 to 4 April 2022.)

201. As found above, on 12 October 2020 the Seventh Appellant received a Covid bounceback loan of £50,000. On 4 March 2021, the Seventh Appellant paid £30,025 to Mr Parvaz (via LivingBe Limited). While these payments appear to show some economic activity on the part of the Seventh Appellant, the payment to Mr Parvaz can only have been made several months in arrears of when the script was commissioned and provided to the Seventh Appellant. This is because all the subsequent work undertaken by the Prime Focus group and Eyka was based upon that script, and all of that work was paid for by May 2019. The other payment is the receipt of the Covid-19 bounceback loan in October 2020. We do not consider that receipt of a loan is sufficient for the Seventh Appellant to have demonstrated to us that it conducted trade on a commercial basis from 5 April 2019 to 4 April 2022. Even if we had accepted the receipt of a loan as evidence of trading on a commercial basis, the Seventh Appellant would still have failed to demonstrate that it was engaged in trade on a commercial basis for the remainder of the period to 4 April 2022.

202. As found above, on 8 July 2021, the Eighth Appellant received a payment of £15,000 for use of the Eighth Appellant's research about the Pashupatinath Temple. We conclude that this sale by the Eighth Appellant, which meant that the Eighth Appellant could not itself use the script or the artwork upon which its two minute teaser film was based, had the effect of stalling the Eighth Appellant's original plans for (at least) the remainder of Period B. Without further funds to enable realisation of other plans, we conclude that the Eighth Appellant was unable to conduct trade on a commercial basis after 8 July 2021. Therefore, we agree with HMRC that no qualifying trade was carried by the Eighth Appellant throughout Period B

Was intellectual property created, and was it created by the appellants?

203. Mr Doshi's submissions with regard to the Trading Condition was that he had created the concept and idea behind the development work, and that concept – the look and feel of the characters – qualified as intellectual property. When challenged by HMRC that the scripts that had been written were simply re-telling legends of the various gods and those legends were already known, Mr Doshi made reference to characters such as Peppa Pig. Mr Doshi argued that the look and concept of Peppa Pig was what differentiated that character

from any other animation concerning a pig and, in the same way, his characterisation of the gods, with his attention to detail in developing the two minute teaser, with a unique and very specific look and feel, was the intellectual property that the appellants had created. Mr Doshi submitted that he had overall creative oversight of all the work undertaken. HMRC submitted that no intellectual property had been created as the proposed films concerned already known legends about the religious sites but, if intellectual property had been created, then it was not created by the appellants who had merely commissioned others to undertake the work: Mr Tuli and Mr Parvaz had written the scripts and the Prime Focus group had created the artwork and the teaser films.

204. In considering this issue and the submissions made by the parties, we have reminded ourselves that the onus lies with the appellants to prove that they created intangible assets. That is even more relevant in these appeals than is usually the case because, here, the appellants have not provided us with the two minute teaser films that they say are now complete, or the scripts or artwork they commissioned. On several occasions during the hearing Mr Doshi told us that he had not provided certain documents or material because HMRC had not asked him for it. However, even if HMRC did not ask for particular documents (a contention HMRC disputed), the onus still lies on the appellants to prove their case. The parties submitted additional documents at a very late stage in the proceedings, but the scripts, artwork and films were not amongst them.

205. That leaves us in the position of being asked to assess whether a commissioned portrayal of legends can amount to creation of intellectual property where the portrayal of the legends of the relevant religious sites, as shown in the two minute teaser films, is distinct, with its own unique look and feel. But we are asked to do this without sight of the two minute teaser films or any of the underlying material used to create those films.

206. Therefore, even if we were to accept the appellants' submission (contested vigorously by HMRC) that, in theory, intellectual property can be created by commissioning the visual portrayal of one or more legends associated with a particular religious site if that portrayal has a very specific and different look that was directed by the appellants, because we have not seen anything at all of what was produced, we still cannot say in this specific case that intellectual property was created.

207. As we have noted already, the onus is on the appellants to persuade us that they met the Trading Condition by demonstrating that their trade is not an excluded activity. In the unfortunate absence of the evidence that would have helped us to decide this point, we cannot be so persuaded. It follows that all ten of appellants' appeals should be dismissed for this reason.

Disqualifying Arrangements as set out in Section 257CF ITA 2007

208. The relevant parts of Section 257CF provide:

> **257CF The no disqualifying arrangements requirement**
>
> (1) The relevant shares must not be issued, nor any money raised by the issue spent, in consequence or anticipation of, or otherwise in connection with, disqualifying arrangements.
>
> (2) Arrangements are "disqualifying arrangements" if-
>
> (a) the main purpose, or one of the main purposes, of the arrangements is to secure-
>
> (i) that a qualifying business activity is or will be carried on by the issuing company or a qualifying 90% subsidiary of that company, and

(ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a VCT,

(b) that activity is the relevant qualifying business activity, and

(c) one or both of conditions A and B are met.

(3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant shares being spent as required by section 257CC, an amount representing the whole or the majority of the amount raised is, in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.

(4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the whole or greater part of the component activities of the relevant qualifying business activity would have been carried on as part of another business by a relevant person or relevant persons.

(5) For the purposes of this section it is immaterial whether the issuing company is a party to the arrangements.

(6) In this section-

"relevant person" means a person who is a party to the arrangements or a person connected with such a party;

"relevant qualifying business activity" means the activity for the purposes of which the issue of the relevant shares raised money;

"relevant tax relief", in respect of shares, means one or more of the following-

(a) SEIS relief in respect of the shares;

209. HMRC submitted that this section was widely drafted and that there were wide ranging definitions. HMRC argued that the relevant companies in the Prime Focus group of companies would qualify as persons connected to the appellants because they had contracted with them. HMRC submitted that those Prime Focus companies would also qualify as persons connected to Mr Doshi by reason of Mr Doshi being employed by the Prime Focus group at the time that the shares were issued, and further that Mr Doshi was connected to each of the appellants because he is their director. Mr Doshi argued that there was no agreement with the Prime Focus group prior to the appellants entering into the contract with Prime Focus MEAD FZ LLC, and so the Prime Focus companies were not relevant persons in relation to the appellants as they were not connected.

210. "Arrangements" covers an incredibly wide variety of steps, agreements, plans or proposals. We conclude that the setting up of the appellants, with the stated intention to use Mr Tuli and the Prime Focus group of companies, does constitute an arrangement. Therefore, if the other criteria are met, the setting up of the appellants and subsequent events, as planned, would be "disqualifying arrangements".

211. In considering who is connected to whom, so we can decide who is a "relevant person", we have looked at the dates on which various events occurred. Prime Focus MEAD FZ LLC entered into an agreement with the appellants on 19 April 2018. We conclude that from this date the Prime Focus companies were each a "relevant person" in relation to the appellants. This date predates the second and third share issues by the appellants, but postdates the first

share issue. We conclude that Mr Doshi, as an employee and then a subcontractor, was connected to the Prime Focus group of companies at all relevant times. Mr Doshi was also connected to each of the appellants and to LITS1, as director and then former director.

212. HMRC submitted that both Condition A and Condition B applied in this case. HMRC argued that the majority of the amounts spent by the appellants were paid to companies in the Prime Focus group of companies, satisfying Condition A, and it was also the case that if the appellants had not been created, Prime Focus could have been expected to undertake the work that the appellants undertook as part of its business, satisfying Condition B. Mr Doshi vehemently denied that companies in the Prime Focus group could have undertaken the work that the appellants undertook.

213. We look first at Condition A. Again, the wording is wide. We conclude that, for each of the appellants, the majority of the amounts spent was paid to one or more companies within the Prime Focus group. That is the case even though the amounts were paid for services that were rendered. Therefore, we agree with HMRC that Condition A is met.

214. With regard to Condition B, we have already concluded (above) that the appellants' decision not to develop any expertise or experience of their own meant that the Prime Focus group of companies could easily have taken on the appellants' projects. We accepted Mr Hindocha's evidence that it was always Mr Doshi's intention that the appellants would contract with the Prime Focus group, to make the most of the close relationship between Prime Focus and Mr Doshi. We have taken into account the appellants' original intentions were to make a film, and we have reminded ourselves that companies in the Prime Focus group had worked on Chaar Sahibzaade 2, the film that sparked Mr Doshi's interest in creating more audio visual content with a religious theme. Even though Mr Doshi argued that the Prime Focus group consisted purely of services companies, and they did not create content, we have concluded, on the balance of probabilities, that if the appellants had not been created, the services that the appellants commissioned from the Prime Focus group could (and would) have been carried on in-house by a company or companies within the Prime Focus group as part of its business.

215. Therefore, we conclude that the Disqualifying Arrangements legislation does apply to the second and third issue of shares. It follows that the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Appellants' appeals should be dismissed in full for this reason, and that the First and Second Appellant's appeals should be dismissed insofar as they relate to the second and third issue of shares, but not the first issue of shares.

Whether the "Shares Requirement" in Section 257CA ITA 2007 is satisfied

216. HMRC's final argument is stated to concern only the Eighth Appellant.

217. As we have found above, the Eighth Appellant made only one issue of shares, on 5 April 2019. The SEIS Compliance statement filed by the Eighth Appellant shows that there were six subscribers, subscribing in total for 150,000 £1 shares. The parties are agreed that one of the subscribers paid the Eighth Appellant only £10,000 of the £20,000 due from her, and that the remaining £10,000 did not leave her bank account.

218. The relevant legislation provides:

> **257CA The shares requirement**
>
> (1) The relevant shares must meet—
>
> (a) the requirements of subsection (2), and
>
> (b) unless they are bonus shares, the requirements of subsection (4).
>
> …

(4) Shares meet the requirements of this subsection if they—

(a) are subscribed for wholly in cash, and

(b) are fully paid up at the time they are issued.

(5) Shares are not fully paid up for the purposes of subsection (4)(b) if there is any undertaking to pay cash to any person at a future date in respect of the acquisition of the shares.

…

257HI Meaning of "issue of shares"

(1) In this Part—

(a) references (however expressed) to an issue of shares in any company are to such of the shares in the company as are of the same class and issued on the same day, and

(b) references (however expressed) to an issue of shares in any company to an individual are to such of the shares in the company as are of the same class and are issued to the individual in one capacity on the same day.

219. HMRC argue that the effect of Section 257HI and 257CA ITA 2007 is that all shares of the same class issued on the same day are the same issue of shares, that all of the shares of the same issue must be subscribed for wholly in cash, and that all shares of the same issue must be fully paid up at the time they are issued. HMRC argue that the consequence of one subscriber omitting to pay £10,000 of the £20,000 due is that none of the shares in that issue of shares satisfies Section 257CA(4)(b) and so, whatever our conclusions in respect of the other arguments, the Eighth Appellant's appeal must fail.

220. Mr Doshi initially accepted that this particular investor would not be entitled to SEIS relief in respect of her subscription but, in his reply, argued that from this investor's perspective the shares were fully paid up as she considered the omitted £10,000 to be ring fenced in her bank account and held for the benefit of the Eighth Appellant. Mr Doshi reminded us that he is qualified as a chartered accountant, and he told us that for the investor to hold the money in her bank account was in accordance with UK accounting standards. Mr Doshi also described the investor's oral commitment to him as being legally binding.

221. The relevant investor did not appear or provide us with a statement to tell us her view of the unpaid £10,000. No expert accounting evidence was presented in support of the Eighth Appellant's argument that all of the shares were fully paid up at the time they were issued. We conclude that HMRC are correct to argue that the legislative requirement that the shares be fully paid up means that the subscription funds must have been paid in cash to the relevant company. We do not consider it is sufficient for the funds to be promised but not paid, even if the relevant investor does consider that the funds are ring fenced in her bank account. The purpose of the relief is to encourage investment in enterprises that are risky and require support. It is difficult to see how that objective could be met if potential subscribers could retain their funds indefinitely at the expense of the relevant enterprise, as that would leave fledgling businesses without the funds needed to grow their business.

222. Therefore, irrespective of our other conclusions, the Eighth Appellant's appeal must fail on the basis that the shares issued on 5 April 2019 do not meet the requirements of Section 257CA ITA 2007.

223. Neither party addressed us on the relevance to any of the other appellants of the requirement that the shares be fully paid up at the time they are issued. However, we have

made findings, based on the bank statements, of the dates on which each of the appellants received deposits from the investors. We have found:

- the First, Second and Ninth Appellants issued shares on 5 April 2018 prior to receiving full payment for those shares, and

- the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Tenth Appellants issued shares on 5 April 2019 prior to receiving full payment for those shares.

224. If we had not already dismissed the appeals of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth and Tenth Appellants on other grounds, we would have invited further argument from the parties as to whether these appellants' appeals should also be dismissed on the basis that the issues of shares specified immediately above also do not meet the requirements of Section 257CA ITA 2007.

CONCLUSION

225. These appeals are dismissed for all the reasons set out above.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

226. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

JANE BAILEY
TRIBUNAL JUDGE

Release date: 23rd NOVEMBER 2023