Case No: CA-2021-003418

**IN THE COURT OF APPEAL (CIVIL DIVISION)**

**ON APPEAL FROM THE UPPER TRIBUNAL**

**TAX AND CHANCERY CHAMBER**

**UPPER TRIBUNAL JUDGE JONATHAN RICHARDS**

**UPPER TRIBUNAL JUDGE JONATHAN CANNAN**

**[2021] UKUT 0250 (TCC).**

**ON APPEAL FROM THE FIRST-TIER TRIBUNAL**

**TAX CHAMBER**

**[2020] UKFTT 0102 (TC)**

**BETWEEN:**

1. **MARK MITCHELL**

 **Appellant/Respondent**

1. **PAUL BELL**

**Appellant**

**-and-**

**THE COMMISSIONERS FOR HIS MAJESTY’S REVENUE AND CUSTOMS**

**Respondents**

 **ORDER**

**UPON HEARING COUNSEL FOR ALL PARTIES, IT IS HEREBY ORDERED:**

1. That the Appeal of Paul Bell is allowed;
2. That the decision of the Upper Tribunal is set aside to the extent that:
	1. it upheld the First-tier Tribunal’s decision dismissing the Respondents’ application to disclose to Paul Bell documents referred to as falling within Levels 2B and 4; and
	2. it upheld the First-tier Tribunal’s decision allowing Mark Mitchell’s application that disclosure of those documents should be refused.
3. That the decision of the First-tier Tribunal is set aside to the extent that:
	1. it dismissed the Respondents’ application to disclose to Paul Bell documents referred to as falling within Levels 2B and 4; and
	2. allowed Mark Mitchell’s application that disclosure of those documents should be refused.
4. That “no order” is substituted for the parts of the decisions of the Upper Tribunal and First-tier Tribunal that are set aside by the preceding paragraphs 2 and 3 of this Order save that this paragraph shall be suspended until the later of (i) Mr Mitchell being refused permission to appeal to the Supreme Court, or (ii) final determination of Mr. Mitchell’s appeal by the Supreme Court.
5. Permission to appeal to the Supreme Court is refused.
6. Mr. Mitchell pay the costs of HMRC of and incidental to these proceedings in the Court of Appeal to be subject to Detailed Assessment if not agreed.
7. That the Detailed Assessment referred to in paragraph 6. be stayed pending the outcome of Mr. Mitchell's application for permission to appeal to the Supreme Court and in the event that permission is granted, the determination of the appeal.
8. Mr. Mitchell pay the costs of Paul Bell of and incidental to these proceedings in the Court of Appeal to be subject to Detailed Assessment if not agreed.
9. Mr. Mitchell pay the costs of Paul Bell of and incidental to the proceedings in the Upper Tribunal under reference [2021] UKUT 0250 (TCC) to be subject to Detailed Assessment if not agreed
10. Mr. Mitchell pay the costs of Paul Bell of and incidental to the proceedings in the First-tier Tribunal under reference [2020] UKFTT 102 (TC) to be subject to Detailed Assessment if not agreed.
11. That the Detailed Assessment[s] referred to in paragraphs 8, 9 and 10. be stayed pending the outcome of Mr. Mitchell's application for permission to appeal to the Supreme Court and in the event that permission is granted, the determination of the appeal.

DATED 10 March 2023