

Taxpayer succeeds in latest Mega Marshmallows VAT decision

The latest decision in the long-running Mega Marshmallows VAT litigation has now been released.

LONDON, UNITED KINGDOM, May 12, 2026 /EINPresswire.com/ -- The latest decision in the long-running Mega Marshmallows VAT litigation has now been released, with the taxpayer succeeding before the First Tier Tribunal in the remitted hearing.



The case, Revenue and Customs Commissioners v Innovative Bites Ltd [2025] EWCA Civ 293, concerns whether Mega Marshmallows should be treated as zero-rated food or standard-rated confectionery for VAT purposes. The Court of Appeal clarified the legal approach to the definition of confectionery and remitted the case to the First Tier Tribunal for reconsideration. A later application for permission to appeal to the UK Supreme Court was refused.



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*Jilly McCullagh, VAT Partner at
Blick Rothenberg*

The remitted tribunal hearing followed the Court of Appeal’s March 2025 judgment, which returned the case to the First-tier Tribunal to determine a key factual issue: whether Mega Marshmallows are “sweetened prepared food normally eaten with the fingers” for VAT purposes.

The case highlights the importance of understanding how products are presented, sold and consumed in the real world. For many businesses, VAT treatment is not simply a technical footnote, it is a key commercial issue.

The dispute has attracted significant attention across the indirect tax and food sectors because it demonstrates the continuing uncertainty that can arise where products sit near the boundary between zero-rated food and standard-rated confectionery.

The matter was originally taken by [The VAT Consultancy](#), now part of the [Blick Rothenberg](#)

Indirect Tax team, underlining the team's longstanding expertise in complex VAT classification disputes.

Jilly McCullagh, VAT Partner at Blick Rothenberg, said:

"This is an important decision in a case that has become one of the best-known recent VAT classification disputes.

It underlines how fact sensitive these cases can be, particularly where the legislation requires close analysis of how a product is normally eaten in practice. For businesses in the food sector, VAT liability remains a critical commercial issue as well as a technical one."

The decision will be of particular interest to food manufacturers, importers, retailers and advisers dealing with borderline [VAT food and drink liability](#) issues.

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