



34TACD2019

Appellant

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal concerns a claim for repayment of additional Vehicle Registration Tax (“VRT”) charged on the late registration of a vehicle. On agreement of the parties this appeal is determined in accordance with section 949U of the Taxes Consolidation Act 1997, as amended (“TCA 1997”).

Background

2. The vehicle, the subject matter of this appeal, was purchased by the Appellant on 10 January 2018. The vehicle was registered with the National Car Testing Service (“NCTS”) on 07 February 2018. A VRT amount of €1,029 was charged on the vehicle plus an additional VRT amount (“late registration fee”) of €586 for late registration of the vehicle. The Appellant paid the full amount of €1,615.

3. The Appellant appealed the application of the late registration fee on the basis that she had registered the vehicle within 30 days of purchase and that a late registration fee should not therefore apply.

4. On appeal to the Central VRT office, the late registration fee of €586 was determined to be overstated and was revised downwards to €554. This revised late registration fee gave rise to a refund owing to the Appellant of €32.



5. The Appellant did not accept that she should be liable for any late registration fee and duly appealed the decision of the Respondent by notice of appeal to the Tax Appeals Commission on 23 April 2018.

Legislation

Section 146 of the Finance Act 2001:

“A person who is aggrieved by a determination of the Commissioners under section 145 may, in accordance with this section, appeal to the Appeal Commissioners against such determination and the appeal is to be heard and determined by the Appeal Commissioners whose determination is final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law.”

Section 132 Finance Act, 1992, as amended:

(1) [Subject to the provisions of this Chapter] and any regulations thereunder, with effect on and from the 1st day of January, 1993, a duty of excise, to be called vehicle registration tax, shall be charged, levied and paid [at whichever of the rates specified in subsection (3) is appropriate] on—

(a) the registration of a vehicle, and

(b) a declaration under section 131(3).

(2) Vehicle registration tax shall become due and be paid at the time of the registration of a vehicle or the making of the declaration under section 131(3), as may be appropriate, by—

(a) an authorised person in accordance with section 136(5)(b),

(b) the person who registers the vehicle,

(c) the person who has converted the vehicle where the prescribed particulars in relation to the conversion have not been declared to the Commissioners in accordance with section 131(3),

(d) the person who is in possession of the vehicle that is a converted vehicle which has not been declared to the Commissioners in accordance with section 131(4),



and where under paragraphs (a) to (d), more than one such person is, in any case, liable for the payment of a vehicle registration tax liability, then such persons shall be jointly and severally liable.]

(3) This subsection deals with rates of VRT and is not repeated here.

(3A) Notwithstanding subsection (3), where the Commissioners are of the opinion that a vehicle has not been registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992), the amount of vehicle registration tax due and payable in accordance with subsection (3) shall be increased by an amount calculated in accordance with the following formula:

$$A \times P \times N$$

Where –

A is the amount of vehicle registration tax calculated in accordance with subsection (3),

P is 0.1 per cent, and

N is the number of days from the date the vehicle should have been registered in accordance with Regulation 8 of the vehicle Registration and Taxation Regulations 1992 and the date of registration of the vehicle.

S.I No. 318/1992 – Vehicle Registration and Taxation Regulation, 1992, Regulation 8

(1) (a) A person not being an authorised person who manufactures or brings into the State a vehicle which is not exempt from registration under section 135 of the Act shall—

(i) make an appointment for a pre-registration examination with the competent person concerned not later than 7 days after the manufacture or arrival in the State of the vehicle, and

(ii) register the vehicle to the satisfaction of the Commissioners not later than 30 days after its manufacture or arrival in the State.



Submissions

6. The Appellant submits that she purchased the vehicle on 10 January 2018 from a man who had advertised the vehicle on a well-known car dealership website. The Appellant further submits that she registered the vehicle at the NCTS on 07 February 2018, in good faith that this was within the 30-day time frame for registration of the vehicle.

7. The Respondent contends that the vehicle the subject matter of the appeal was imported into the country on 18 August 2016. As the vehicle was not registered until 07 February 2018, a late registration fee applies and is calculated using the following formula:

$$A \times P \times N$$

Where –

A is the amount of vehicle registration tax calculated in accordance with subsection (3),

P is 0.1 per cent, and

N is the number of days from the date the vehicle should have been registered in accordance with Regulation 8 of the vehicle Registration and Taxation Regulations 1992 and the date of registration of the vehicle.

8. The NCTS calculated the late registration fee using the above formula. In the calculation used by the NCTS, “A” is €1,029 and “N” is 569 which is the number of days between 17 July 2016 (the date on which the NCTS incorrectly stated the vehicle was imported) and 07 February 2018 (the date the vehicle was registered). This resulted in a late registration fee of €586.

9. The Appellant accepted that an amount of €1,029 was due on registration of the vehicle but did not accept that the registration of the vehicle was late. She appealed the application of the late registration fee to the central appeals office in the Office of the Revenue Commissioners.



10. Having received the Appellants notice of appeal the Respondent revised the calculation of the late registration fee to account for the correct date on which the vehicle was imported into the country, which was 18 August 2016. “A” in the above formula is €1,029 and “N” is 538 which is the number of days from 18 August 2016 (the date on which the vehicle was actually imported into the country) to 07 February 2018 (the date the vehicle was registered). Inserting these figures into the above formula results in a late registration fee of €554.

11. The Appellant was informed by letter dated 23 March 2018 that a refund of €32 was owing due to the incorrect date of importation used by the NCTS but that the late registration fee would stand.

12. The Appellant appealed this decision to the Tax Appeals Commission on the basis that she was unaware at the time of purchase, that the vehicle had been imported in August 2016. Furthermore, the Appellant asserts that she should not be liable for the late registration fee as she purchased the vehicle in good faith and registered the vehicle within 30 days of the date of purchase and in accordance with her statutory obligations.

13. There was no dispute between the parties in relation to the date of importation, which was stated as 18 August 2016.

Analysis

14. When a car is brought into the State it must be registered within 30 days of importation in accordance with Regulation 8 of Statutory Instrument No. 318/1992. Section 132(2) requires that the VRT be paid by the person who registers the vehicle in the State. The vehicle the subject matter of the appeal was imported on 18 August 2016 but was not registered until 07 February 2018. Notwithstanding that the Appellant was not the person who imported the vehicle, the late registration fee falls to be paid at the time of registration of the vehicle pursuant to S132(3A) Finance Act 2009, as amended.

15. The Tax Appeals Commission does not have jurisdiction to adjudicate on the fairness of the application of the late registration fee and can only determine the matter in accordance with the legislation. The legislation as it is written is clear and unambiguous and does not afford any discretion on the application of the fee where the vehicle was





registered outside of the 30-day time frame, even in circumstances where the person who registered the vehicle was not the person who imported the vehicle.

Conclusion

16. Based on a consideration of the evidence and submissions together with a review of the documentation I determine that the late registration fee of €554 shall stand. The appeal hereby is determined in accordance with section 949AL TCA 1997.

PAUL CUMMINS

APPEAL COMMISSIONER

13 September 2019

