



Ref: 87TACD2020

BETWEEN/

APPELLANT

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal concerns the refusal by the Respondent to make a refund of Vehicle Registration Tax (VRT) arising from an application made by the Appellant for the deletion of a vehicle from the vehicle register and a refund of the VRT paid on the vehicle concerned.
2. By agreement of the parties this appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act 1997, as amended ('TCA 1997').

Background

3. The vehicle, the subject matter of the appeal, was a left-hand drive vehicle which the Appellant had brought into the State from REDACTED on 27 May 2016.
4. The Appellant registered the vehicle in the State on 29 June 2016. The vehicle was valued at €5,752 and VRT was charged at 17%. The Appellant paid €977 on registration and was allocated the registration number REDACTED.
5. Having registered the vehicle, the Appellant sought to pay Motor Tax and was advised that the vehicle could not be taxed until it was insured.

6. As a result of experiencing difficulties in obtaining affordable insurance, the Appellant did not tax the vehicle and continued to use the original REDACTED registration plates whilst he was in Ireland.
7. The Appellant returned the vehicle to REDACTED within 6 months of bringing it into Ireland and in March 2017 he purchased a second hand vehicle in Ireland. The Appellant made an application for deletion of the former vehicle from the Irish vehicle register (maintained by the Respondent) on 15 February 2017 and applied for a refund of the VRT paid.
8. The Respondent, by letter dated 6 April 2017, refused to repay the VRT paid on the basis that the application did not meet the conditions set out in Section 134 (6) Finance Act 1992 and Paragraph 7 of the Vehicle Registration and Taxation (No.2) Regulations 1992. The Appellant then appealed to the Revenue Commissioners under Section 145 of the Finance Act 2001.
9. The Respondent, by letter dated 27 June 2017, upheld their decision to refuse the refund. The Appellant was aggrieved by the decision of the Revenue Commissioners and appealed to the Tax Appeals Commission on 29 June 2017.

Legislation

Section 134(6) – Finance Act 1992

- 134 (6) *When an entry in the register is deleted and the Commissioners are satisfied that the deletion is warranted by exceptional circumstances which arose within 7 working days after the registration of the vehicle concerned and the vehicle had not been the subject of a licence under the Act of 1952, they may, subject to such conditions as they may impose, repay the whole or part of the vehicle registration tax paid on the vehicle concerned.*



S.I. No. 437 of 1992 – Vehicle Registration and Taxation (No.2) Regulations 1992 ('the Regulations')

Paragraph 7

- (7) *A person who seeks the repayment under sections 134(6) of the Act of the tax paid on the registration of a vehicle shall make an application in writing to the Commissioners within 21 days of such registration for the repayment, shall set out in the application the exceptional circumstances claimed to warrant the repayment and shall furnish to the Commissioner, if so requested by them, proof to the satisfaction of the Commissioners of those circumstances.*

Submissions

10. In their letter of 6 April 2017 refusing the refund the Respondent stated that;

"An Application for the deletion of a registration and subsequent repayment of Vehicle Registration Tax will only be allowed where,

- The exceptional event arose within 7 days of registration*
- The application to delete the registration has been made within 21 days of registration*
- Revenue is satisfied that the event is "exceptional"*
- The vehicle has not been licensed for use in a public space – i.e. road tax has not been paid*
- The application is completed satisfactorily and contains all the necessary information"*

11. The Respondent submitted in their Statement of Case to the Tax Appeals Commission that;

"The registration record for vehicle REDACTED indicates that it was registered in this state on 29/06/2016, and your application for deletion was not received until 15/02/2017 (which is outside the prescribed time limit)."



"In his Notice of Appeal to the Tax Appeals Commission Mr REDACTED states that it was impossible to apply to de register his vehicle within 7 days. I would suggest that Mr REDACTED should have requested Insurance quotes prior to importing his vehicle as had he done so he would have made an informed decision as to the viability of insuring a left-hand drive vehicle in the State. I would respectively point out that the cost of the insurance is not a matter that the Revenue Commissioners take into account for the registration of vehicles. It is of no relevance that Mr REDACTED did not purchase Irish Registration plates, the registration number REDACTED was allocated to his vehicle."

12. The Appellant accepts that he did not submit the application to delete the registration of the vehicle within 21 days of registration. However, he submits that;

"I would like to say that at no time from the time I paid the VRT to the time I made a request for a refund was I aware that there was a time limit on claims for repayment. I have thoroughly reviewed all of the documentation I received from the NCT including the Vehicle Import receipt and Declaration and there is no mention anywhere of this condition.... As someone with limited English, finding the relevant Sections of the Finance Act which refer to repayment is also very difficult."

13. With regard to the exceptional event which arose within 7 days of registration, the Appellant submitted that;

"The exceptional circumstances which arose within 7 working days after the registration of the vehicle were that I was unable to obtain insurance from any insurance companies as my car was a left-hand drive. The cheapest quotation I was able to secure was €4,500, which I could not afford to pay."

"As I was unable to secure insurance I could not tax the car so the vehicle has not been the subject of a licence under the Act of 1952."



14. With regard to the exceptional circumstances submitted by the Appellant relating to his inability to secure insurance to enable him to tax the vehicle, the Respondent submitted as follows;

“As part of my investigation, I contacted two Insurance Brokers and two Insurance Companies, and enquired if they would insure a left-hand drive vehicle. Both of the brokers i.e. REDACTED were willing to quote for a left hand drive and of the two insurance companies i.e. REDACTED do not insure left hand drive vehicles, however REDACTED do.”

Analysis

15. S.134 (6) Finance Act 1992 states that;

When an entry in the register is deleted and the Commissioners are satisfied that the deletion is warranted by exceptional circumstances which arose within 7 working days after the registration of the vehicle concerned and the vehicle had not been the subject of a licence under the Act of 1952, they may, subject to such conditions as they may impose, repay the whole or part of the vehicle registration tax paid on the vehicle concerned.

16. Vehicle Registration and Taxation (No.2) Regulations 1992 – Paragraph 7 states that;

A person who seeks the repayment under sections 134(6) of the Act of the tax paid on the registration of a vehicle shall make an application in writing to the Commissioners within 21 days of such registration for the repayment, shall set out in the application the exceptional circumstances claimed to warrant the repayment and shall furnish to the Commissioner, if so requested by them, proof to the satisfaction of the Commissioners of those circumstances.

17. The Appellant does not dispute the fact that he failed to comply with Paragraph 7 of the Regulations but has argued that he was not made aware of the time limit of 21 days.



18. The Appellant submits that his inability to obtain affordable insurance constitutes 'exceptional circumstances' as set out in S.134(6) Finance Act 1992. He also submits that this occurred within 7 days of registration.
19. The Respondent disputes whether this inability to obtain affordable insurance constitutes 'exceptional circumstances'. The Respondent submitted that through their own enquiries on the feasibility of insuring a left-hand drive vehicle, they were given quotes from 3 out of the 4 suppliers that they had contacted.
20. In my view the Appellant's inability to obtain affordable insurance would not constitute 'exceptional circumstances' that would warrant the deletion of the vehicle registration and the repayment of the whole or part of the VRT paid.
21. In relation to the time limit of 21 days set out in Paragraph 7 of the Regulations, the legislation on this matter is clear and unambiguous;

A person who seeks the repayment under sections 134(6) of the Act of the tax paid on the registration of a vehicle shall make an application in writing to the Commissioners within 21 days of such registration for the repayment. (emphasis added)

22. In my view, the use of the word 'shall', per Paragraph 7, indicates an absence of discretion in the application of this provision. The wording of the provision does not provide for extenuating circumstance in which this rule might be mitigated. In short, I do not consider that I have the authority or jurisdiction to direct that the refund be made to the Appellant.

Conclusion

23. Pursuant to the wording of S.134 (6) Finance Act 1992 and Paragraph 7 of the Regulations, I determine that the Appellant has not satisfied the conditions necessary to qualify for a refund of the VRT. I determine that the Respondent has acted correctly in refusing a repayment of the VRT amount.
24. This appeal is determined in accordance with section 949AL TCA 1997.





PAUL CUMMINS
APPEAL COMMISSIONER
12 MARCH 2020

