



Ref: 89TACD2020

BETWEEN/

APPELLANT

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal concerns the determination of the due date for the charging of Vehicle Registration Tax ('VRT') on the importation of a vehicle into the State. Depending on the assumed date of importation into the State, VRT penalties for late registration may or may not arise.
2. This appeal is determined without an oral hearing in accordance with section 949U of the Taxes Consolidation Act 1997, as amended ('TCA 1997').

Background

3. The vehicle, the subject matter of this appeal, is a 2017 Mercedes Benz **REDACTED**. The vehicle was first registered in the UK in April 2017. The vehicle was purchased by the Appellant in the UK and shipped to Dublin on 28 July 2017.
4. The Appellant was aware of the requirement to register the vehicle in Ireland within 30 days of importation and presented the vehicle at the VRT centre in early August 2017. He was informed at the VRT centre that VAT was also due on the importation of the vehicle as it was less than six months since the first registration of the vehicle in the UK

and the vehicle had travelled 6000 km or less at the time of being presented for registration in the State.

5. Not being aware that VAT was also due on the registration of the vehicle, the Appellant decided to abandon the registration and brought the vehicle to Northern Ireland before the 30 days' time limit had elapsed.
6. On 19 December 2017, the Appellant represented the vehicle for registration and paid the VRT and VRT penalties (due according to the Respondent). Penalty VRT of €1,018 was charged for late registration of the vehicle as it was deemed by the Respondent to have arrived in the State in July 2017 but had not been registered until December 2017. No Irish VAT was levied at the time of registration on 19 December 2017.
7. The Appellant appealed the imposition of the late registration VRT charges of €1,018 to the VRT Appeals Unit. The VRT Appeals Unit requested evidence that the vehicle had been brought to Northern Ireland in August 2017. The Appellant did not provide any evidence of this and has argued that he was not advised of the need to have such evidence at the time that he removed the vehicle from the State. In the absence of evidence that the vehicle had in fact been exported the VRT Appeals Unit determined that the VRT late penalties had been correctly charged.
8. The Appellant appealed to the Tax Appeals Commission on 29 March 2018 on the grounds that the VRT late registration penalties were not due. He contends that having first shipped the vehicle into the State he then brought the vehicle outside the State within 30 days of its arrival and therefore the VRT is not due from the date of first arrival in July 2017.

Legislation

Section 132 – Finance Act 1992

Charge of excise duty

132. *(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

.....

(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—

.....

(b) the person who registers the vehicle,

.....

Section 3(f) – S.I. No. 400 of 2010 – Vehicle Registration and Taxation (Amendment) Regulations 2010

(f) by substituting the following for Regulation 8(1):

"(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

- 9. There is no dispute regarding the actual calculation of the late registration VRT penalties, if due. The dispute is in respect of establishing the correct date that VRT became due and hence whether late registration VRT penalties arise.



10. The Appellant submits that the vehicle first arrived in the State at Dublin port on 28th July 2017. The parties are not in dispute regarding this.

11. The appellant submitted a photograph of a notice displayed in the VRT centre in Dundalk in May 2018 which he contends indicates that a person is permitted to not proceed with a registration, provided the vehicle is taken out of the State within 30 days of first entering the State. He contends that he complied with this. The notice submitted by the Appellant as being displayed in the Dundalk VRT office reads as follows:

“If you decide that you do not wish to register the vehicle, and pay the VRT due, you must ensure that the vehicle is taken out of the State immediately, but at the latest within 30 days of its initial entry into the State.”

12. During the First Stage VRT appeal the Appellant provided a copy of the insurance certificate for the vehicle. The vehicle was insured in his brother’s name at a Dublin address.

13. No evidence or claim was made by either party that the vehicle had been driven around or used in the State during the period from 22 August 2017 to 19 December 2017. However, the Appellant contends that it is unfair that he should be required to provide evidence and proof that the vehicle was removed from the State during this period. The only “evidence” provided by the Appellant was a copy of an email he sent to the VRT centre on 22 August 2017 advising them that he had now “exported” the vehicle to Northern Ireland and would “re-present” the vehicle in late October or early November 2017.

14. The Respondent stated in their First Stage appeal refusal letter that;

“As no documentation has been presented to verify the fact that the vehicle was held in the North of Ireland, I must now determine that this appeal is refused.”

Analysis

15. Section 3(f) of S.I. No. 400 of 2010 – Vehicle Registration and Taxation (Amendment) Regulation 2010, provides that a person who brings a non-exempt vehicle into the state shall register the vehicle for VRT not later than 30 days after its arrival in the state.



16. The Appellant acknowledges that he first brought the vehicle into the State on 28 July 2017 and he submits that having “changed his mind” he subsequently removed the vehicle from the State. The Appellant provided no evidence that the vehicle had been brought outside the State and that it remained there until its registration in December 2017.
17. Once the vehicle arrives in the State then, for VRT purposes, it follows that it must still be in the State unless it is exported from the State.
18. The Appellant did not qualify nor has it been argued by either party in this appeal that he did qualify under the relief provisions of Section 134 – Permanent relief or Section 135 - Temporary Relief of Finance Act 1992.
19. The facts in this appeal, clearly show that the Appellant brought the vehicle into the State. He first presented the vehicle to the VRT centre in August 2017 on the basis that he had imported it and was required to register it.
20. In correspondence between the Appellant and the Tax Appeals Commission the Appellant was unwilling to provide details of the address at which he claimed the vehicle was held at in Northern Ireland between August and December 2017.

Conclusion

21. In appeals before the Tax Appeals Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that the relevant tax is not payable.
22. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another*, [2010] IEHC 49, at para. 22, Charleton J. stated: *‘The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable.’*
23. Based on a consideration of the evidence and submissions together with a review of the documentation, I determine that the Appellant did not succeed in discharging the burden





of proof in this appeal and that the vehicle was required to be registered within 30 days after its arrived in the State in July 2017. On that basis I determine that the VRT late registration charge of €1,018 should stand.

24. This appeal is determined in accordance with section 949AL TCA 1997.

PAUL CUMMINS

APPEAL COMMISSIONER

18 March 2020

