



11TACD2022

BETWEEN/

■■■■ ■■■■

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This is an appeal pursuant to section 146 of the Finance Act, 2001 (as amended) against a determination made by the Revenue Commissioners. The appeal concerns an amount of vehicle registration tax charged pursuant to section 132(3A) of the Finance Act, 1992 (as amended) on the basis that the vehicle was not registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992) (as amended), being within 30 days after the date of arrival of the vehicle in the State.

Background

2. The vehicle the subject matter of the appeal, is a ■■■■ ■■■■ ■■■■ ■■■■ ■■■■ (formerly ■■■■ ■■■■ purchased by the Appellant in the UK on 20 July, 2017, from ■■■■ ■■■■ Limited. The vehicle was transported to Ireland by Johnston Car Transport on 1 August, 2017, and delivered to the Appellant at his home in Dublin on that date.
3. In late August 2017, the vehicle was transferred to the ■■■■ ■■■■ ■■■■ ■■■■ ■■■■ and was subsequently transferred to ■■■■ ■■■■ Dublin ■■■■ ■■■■ for

sale on 23 October, 2017. The vehicle was registered in the State on [REDACTED], 2017.

4. The VRT calculated totalled €9,236 together with an additional VRT charge of €1,052 in relation to the late registration of the vehicle on the basis that the Appellant failed to register his vehicle within 30 days after the arrival of the vehicle into the State in accordance with the provisions of section 132(3A) of the Finance Act 1992 (as amended) and regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (as amended).
5. The Appellant appealed the additional VRT charge to the Revenue Commissioners on grounds that from late August 2017, the vehicle was held in the [REDACTED] and was subsequently transferred to [REDACTED] Dublin [REDACTED] for sale on 23 October, 2017. The Appellant contended that the 30 day period within which registration was to take place, commenced on 23 October, 2017. The appeal was refused by the Respondent on grounds that it was not registered within 30 days after the date of importation of the vehicle into the State on 1 August 2017, in accordance with section 132(3A) of the Finance Act 1992 (as amended). The Appellant was aggrieved by the determination of the Revenue Commissioners in relation to the additional amount of VRT of €1,052 and appealed to the Tax Appeals Commission against that determination.

Legislation

Section 132 Finance Act 1992, as amended – Charge of excise duty

(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 entered the State to the date of registration of the vehicle.

S.I No. 318/1992 – Vehicle Registration and Taxation Regulations 1992 (as amended).

Regulation 8(1) provides:

(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 and analysis

6. It was not in dispute that the vehicle was transported to Ireland by [REDACTED] on 1 August, 2017, and delivered to the Appellant at his home in Dublin on that date and a delivery document provided by the Appellant to the NCTS centre confirmed the position. The Respondent submitted that the date of 1 August, 2017, was the date of importation of the vehicle into the State and that the events that followed in terms of transporting the vehicle to Northern Ireland were irrelevant for the purposes of section 132(3A) of the Finance Act 1992 (as amended) and regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (as amended). The Respondent's position was that the vehicle first arrived in the State on 1 August, 2017, but was not presented for registration until [REDACTED], 2017, and that as the vehicle was not presented for registration within the 30 day statutory period, an additional amount of VRT arose and the Respondent was bound by its statutory duties and obligations to assess and collect this tax.



7. The Appellant contended that the correct date of importation of the vehicle was 23 October, 2017. The Appellant submitted that he was forthright and transparent in his dealings and that he furnished to the NCTS, shipping and delivery documentation showing delivery of the vehicle to his [REDACTED] address on 1 August 2017, together with all other relevant documentation. The Appellant submitted that he was compliant in his dealings with the Respondent regarding payment of VRT in relation to imported vehicles generally.
8. The Appellant submitted that the additional charge to VRT in the sum of €1,052.00 was unwarranted. He stated that the vehicle was brought into the State on 23 October, 2017, in order to present the vehicle for VRT registration and to place the vehicle for sale on the Irish market. The vehicle was registered in the name of the Appellant on [REDACTED], 2017, and was allocated the registration number [REDACTED]
9. All vehicles are subject to VRT on first registration in the State. Section 132(3A) of the Finance Act, 1992 (as amended) provides that the amount of VRT due and payable shall be increased by an amount calculated by reference to the number of days the vehicle should have been registered on entering the State and the actual date of registration.
10. It is not disputed that the vehicle the subject of this appeal was transported to Ireland by [REDACTED] on 1 August, 2017, and delivered to the Appellant at his home in Dublin on that date and indeed a delivery document provided by the Appellant to the NCTS confirmed that this was the case.
11. Where a vehicle is in the State for in excess of 30 days without being registered, an additional VRT charge will apply upon registration as outlined in accordance with section 132(3A) of the Finance Act 1992 (as amended) and regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (as amended). The Respondent submitted that the additional VRT charge is neither a fine nor a penalty but rather, is additional VRT collected where the vehicle is not registered within the stipulated 30 day period.
12. The Appellant submitted that he was not liable to comply with the 30 day rule because the vehicle was not initially within the State for 30 days and because the Appellant was unable to register the vehicle as it was outside the State from late August 2017



to 22 October 2017. While the Appellant submitted that the date of arrival of the vehicle into the State was 23 October, 2017, he was unable to identify any authority or statutory provision in support of his submission.

13. The Respondent stated that where registration does not take place within 30 days, a refund may be made only where the Respondent is satisfied that the registration could not be completed because of delays on the part of the Respondent or the NCTS. I am satisfied that such circumstances did not arise in this appeal.

Conclusion

14. In appeals before the Tax Appeals Commission, the onus of proof rests on the Appellant who must prove on the balance of probabilities that the relevant tax is not payable. 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.'*
15. In accordance with section 132(3A) of the Finance Act 1992 (as amended) and regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (as amended) the Appellant was required to register his vehicle within 30 days of the importation of the vehicle into the State. It is not in dispute that the vehicle arrived into the State for the first time on 1 August, 2017. I do not accept the Appellant's submission that the date of importation of the vehicle into the State for the purposes of calculating VRT was 23 October, 2017. The vehicle was not presented for registration for VRT until [REDACTED], 2017, approximately [REDACTED] days after its arrival in the State. In these circumstances, section 132(3A) of the Finance Act 1992 (as amended) and regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (as amended) apply to impose an additional charge to VRT.
16. Based on a consideration of the evidence and submissions together with a review of the documentation, I am satisfied that the Appellant has not succeeded in showing that the relevant tax is not payable and I determine that the Appellant is not entitled to a repayment of additional vehicle registration tax of €1,052 charged on the late





registration of the vehicle. This appeal is determined in accordance with section 949AL TCA 1997.

A handwritten signature in black ink, appearing to read "Lorna Gallagher".

COMMISSIONER LORNA GALLAGHER

19th day of November 2021

This determination has not been appealed.

