AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

133TACD2022

Between

[redacted]

Appellant

and

The Revenue Commissioners

Respondent

Determination

Introduction

1. This relates to two appeals to the Tax Appeals Commission ("the Commission") pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 ("the TCA 1997") brought on behalf of [redacted] ("the Appellant") against a Value Added Tax ("VAT") Notice of Assessment for the years 2016, 2017, 2018 and 2019 and a Notice of Estimation of Amounts Due for the years 2016, 2017 and 2018.

2. On 16 December 2020, a Notice of Assessment in relation to VAT liabilities issued as follows:-

YEAR	AMOUNT
2016	€107,867
2017	€58,825
2018	€98,131
2019	€74,527

3. On 15 December 2020, a Notice of Estimation of Amounts Due in relation to Benefit in Kind ("BIK") issued as follows:

YEAR	AMOUNT
2016	€14,619
2017	7,717
2018	€12,771

4. The Respondent argues that total liabilities for VAT are in the sum of €339,350 and BIK in the sum of €35,107.50. However, the Appellant maintains that liabilities for VAT are in the sum of €64,461.80 (which has now been paid) and which leaves the sum of €274,888.20 in dispute and the sum of €23,311.01 for BIK, which leaves the sum of €11,796.49 in dispute.

5. On 7 January 2021, the Appellant duly appealed to the Commission. The Appellant is appealing both the charge to VAT and BIK. A hearing of the appeal took place on 30 June 2022 having previously been adjourned. The Commissioner heard evidence and submissions from the Appellant and submissions from the Respondent.

Background

6. The Appellant is a [redacted] dealer and engages in the business of buying and selling new and used cars. In addition, there is a service and parts business. The Dealership has been in existence since 1990, with Mr [redacted] ("the Director") being appointed as a Director in 20[redacted]. The Director submits that in 2016, a decision was made to develop a niche business in the purchase and sale of rally cars, in addition to its business of buying and selling new and used cars.

7. On 28 February 2019, the Respondent carried out a profile interview on the Appellant in relation to the Intra Community purchase of rally cars from a UK based company. The rally cars are built from a new shell and subsequently, parts are added to bring them up to specification for use in rally driving by the Director. The rally cars have never been registered for road tax nor was VRT paid on these vehicles.

8. According to the Respondent, the assessments deal with five rally cars. The Appellant's position is that only one car, the 2017 car, was purchased for the Director to use personally for rallying and the outstanding cars were treated as stock-in-trade as part of the Appellant's business of buying and selling cars.

9. On 28th June 2019, the Appellant' Agent wrote to the Respondent stating *inter alia* that "*it is important to note that the company took a commercial decision to use the rally cars to advertise the company in the same way it would if it took out a radio or newspaper advertisement. The cars are used to market the business carried out by the company by way of customised branding…where purchases are used for business and partly for non-business use, then the trader can only deduct a portion of the VAT incurred to reflect the amount of business use. The rally cars are used to market the business with arguably an element of personal use by [the Director]"*

10. On 2 July 2019, the Respondent wrote to the Appellant stating that a deduction for VAT on the purchase of a rally car was prohibited under Section 60 VATCA 2010. On 3 September 2019, the Appellant's Agent responded stating that the Appellant was entitled to a deduction as the cars were purchased to advertise the company and that the basis for its VAT deduction claim is the general provisions of Section 59(2) VATCA 2010. It was suggested that a 10% restriction of the VAT incurred on all the vehicles is applied to reflect both the business and personal use of the rally cars.

11. On 16 September 2019, the Respondent wrote to the Appellant setting out a summary of facts established at the meeting of 28 February 2019 with the Appellant. The Respondent stated that "*the general restrictions of section 60(2)(a)(iv) VATCA 2010 apply and a VAT deduction is not allowed for the acquisition of a sports motor vehicle. Furthermore, no apportionment can be made under section 61(1) VATCA 2010, which specially excludes goods and services under section 60(2) VATCA 2010 from the "dual use inputs" provisions*". The Respondent suggested that a VAT clawback of 100% input credit of €352,184 excluding interest and penalties arises. Further, the Respondent suggested that the main beneficiary of the acquisition of rally cars is the Director of the Appellant, therefore BIK applies. This is based on the Directors *"extensive rallying career prior to becoming an officer of the company in 20[redacted]"* and that "*the rally cars are not used by any other employee or independent drivers".*

12. On 14th October 2019, the Appellant's Agent responded stating that the only car that was purchased for rally driving by the Director, was the rally car purchased in 2017. The Appellant made a disclosure for 100% clawback of this vehicle and the BIK in relation to the Director's use of same. Further, the Appellant indicated that three vehicles were purchased for resale. The Respondent argues that this is "*despite having accepted in previous correspondence that they were also purchased for use by the Appellant for the purposes of rally driving and in which correspondence no distinction was made between the car on which a disclosure was subsequently made and these three cars*".

13. On 30th November 2020, the Respondent wrote to the Appellant stating its intention to raise assessments for all years 2016 to 2019 and that these assessments were based on information available to the Respondent from the VAT Information Exchange System (VIES). VIES is a search engine owned by the European Commission and it is an electronic means of validating VAT identification numbers of economic operators registered in the European Union for cross border transactions on goods or services

14. Thereafter, on 7 January 2021, the Appellant duly appealed to the Commission.

Legislation and Guidelines

15. The legislation relevant to this appeal is as follows:

VAT

16. Section 2(1) VATCA 2010, Interpretation – General, provides:-

> *"stock-in-trade", in relation to a person, means goods—*
>
> > *(a) that are movable goods of a kind that the person has supplied in the ordinary course of the person's business and that -*
> >
> > > *(i) are held for supply (otherwise than because of section 19(1)(f)), or*
> > >
> > > *(ii) would be so held if they were mature or if their manufacture, preparation or construction had been completed,"*

17. Section 59 of the Value Added Tax Consolidation Act ("VATCA") 2010, Deduction for tax borne or paid, provides:-.

> *(2) Subject to subsection (3), in computing the amount of tax payable by an accountable person in respect of a taxable period, that person may, in so far as the goods and services are used by him or her for the purposes of his or her taxable supplies or of any of the qualifying activities, deduct -*
>
> > *(a) the tax charged to him or her during the period by other accountable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of goods or services to him or her,*
> >
> > *(b) in respect of goods imported by him or her in the period, the tax paid by him or her or deferred as established from the relevant customs documents kept by him or her in accordance with section 84(3),*

(c) subject to such conditions (if any) as may be specified in regulations, the tax chargeable during the period, being tax for which he or she is liable in respect of intra-Community acquisitions of goods,

18. Section 60 VATCA 2010, General limits on deductibility, provides:-

(1) "*motor vehicles" means motor vehicles designed and constructed for the conveyance of persons by road and sports motor vehicles, estate cars, station wagons, motor cycles, motor scooters, mopeds and auto cycles, whether or not so designed and constructed, excluding vehicles designed and constructed for the carriage of more than 16 persons (inclusive of the driver), invalid carriages and other vehicles of a type designed for use by invalids or infirm persons;……..*

(2)*(a) Notwithstanding anything in this* Chapter*, a deduction of* tax *under this* Chapter *shall not be made if, and to the extent that, the* tax *relates to -*

….(iv) subject to section 59(2)(d)*, the purchase, hiring, intra-Community acquisition or importation of motor vehicles otherwise than as stock-in-trade or for the purpose of the supply thereof by a person supplying financial services of the kind specified in* paragraph 6(1)(e) *of Schedule 1 in respect of those motor vehicles as part of an agreement of the kind referred to in* section 19(1)(c) *or for the purposes of a business which consists in whole or part of the hiring of motor vehicles or for use, in a driving school business, for giving driving instruction,…."*

BENEFIT IN KIND

19. Section 118 of the TCA 1997, Benefit in Kind: general charging provision, provides:-

"(1) Subject to this Chapter, where –

(a) a body corporate incurs expense in or in connection with the provision, for any of its directors or for any person employed by it in an employment to which this Chapter applies, of –

(i) living or other accommodation,

(ii) entertainment,

(iii) domestic or other services, or

(iv) other benefits or facilities of whatever nature, and

(b) apart from this section the expense would not be chargeable to income tax as income of the director or employee,

then, sections 112*,* 114 *and* 897 *shall apply in relation to so much of the expense as is not made good to the body corporate by the director or employee as if the expense had been incurred by the director or employee and the amount of the expense had been refunded to the director or employee by the body corporate by means of a payment in respect of expenses, and income tax shall be chargeable accordingly."*

20. Section 119 TCA 1997, Valuation of benefits in kind, provides:-

"(1) Any expense incurred by a body corporate in the acquisition or production of an asset which remains its own property shall be disregarded for the purposes of section 118 .

(2) Where the making of any provision mentioned in section 118 (1) takes the form of a transfer of the property in any asset of the body corporate and, since the acquisition or production of that asset by the body corporate, that asset has been used or has depreciated, the body corporate shall be deemed to have incurred in the making of that provision expense equal to the value of that asset at the time of the transfer.

(3) Where an asset which continues to belong to the body corporate is used wholly or partly in the making of any provision mentioned in section 118(1), the body corporate shall be deemed for the purposes of that section to incur (in addition to any other expense incurred by it in connection with the asset, not being expense to which subsection (1) applies) annual expense in connection with the asset of an amount equal to the annual value of the use of the asset, but where any sum by means of rent or hire is payable by the body corporate in respect of the asset –

(4) For the purposes of subsection (3), the annual value of the use of an asset shall be taken to be –

……..

(b)in the case of any other asset, 5 percent of the market value (within the meaning of section 548) of the asset at the time when it was first applied by the body corporate in making any provision mentioned in section 118(1).

Submissions

Appellant

21. The Appellant gave the following evidence in support of his appeal

(i) He was appointed Director in 20[redacted], having worked with the Appellant prior to this. The Appellant is a [redacted] dealership which has been in existence since 19[redacted]. The main business is buying and selling cars, in addition to service and parts. He said that he regularly uses cars from the Appellant and that a BIK payment is made for the use of all cars.

(ii) He mentioned he has had an interest in rally [redacted] since he was young. In terms of the rally trade, he said it is similar to the normal motor business, but that there is no one in the Republic of Ireland that trades in rally cars. He said there are a few businesses in Northern Ireland and across the UK and Europe. However, the market is at car rallies, where you attend an event to see a car. He suggested that rally cars are purchased at the end of races as rally cars are not going lined up for sale at any dealership. He said it is not a big market and he sells far more road cars than rally cars. He mentioned that he saw an opening in the market in Ireland and in 2016, he bought a rally car namely a Ford [redacted]. He provided some background as to the modifications required for a rally car such that it is bought and adapted to the roads in Ireland. He said that he decided he would rally it at an event, to prove it is quick and hopefully secure a sale.

(iii) In 2017, he said he bought a car which he drove personally at rallies. In 2018, he bought another rally car, a Ford [redacted], rallied it once and then sold it on. On 14 May 2019, he bought a [redacted] which was sold on 29 June 2019 for a profit of in or around €3,600. He said that this car was sold before it was driven at the rally. In terms of profit, he said he has made both losses and gains on the sale of rally cars. He referenced a further car sold last year for a profit of €2,000. He stated that he bought a Volkswagen [redacted] and Ford [redacted] in 2020, which were not treated as stock-in-trade and VAT has been paid on the rally cars. He stated he intended to keep going with the trade and that there is money to be made in this market. Whilst mistakes were made at the start, he said he understands the market now.

(iv) Under cross-examination he was asked why his Statement of Case at page 20 of 236 of the booklet states that he has no intention to continue with the trade. He stated that he does not know why, but that it is his intention to continue with the trade. In relation to the statement that the cars were being used for advertising, he stated that the dealership's name is placed on the rally cars so there is an element of advertising when being driven at rallies. He stated that using the cars for marketing and placing stickers on them is no different to taking an advertisement out in a newspaper. He was asked how the car can be stock-in-trade and used for

advertising, as these are two different things for the treatment of VAT. He said that all cars for sale are treated as stock-in-trade of the Appellant.

(v) He stated that in relation to BIK, he is already paying BIK on all company cars, it is not fixed to any particular car and therefore BIK is not due on each of the separate rally cars. He stated that he is not using the cars for personal use, but that he must rally the cars in order to sell them. He confirmed that it is part of the business that he drive the stock rally cars. He said you could employ someone to drive the cars but that would be a different type of business.

(vi) When asked about the decision to branch out into rally cars he said that it was his decision alone and he accepted that no board meeting took place with the other Directors of the Appellant or that the memorandum of association was amended to reflect that the rally cars were now to be sold as part of the business. It was put to him that it is not credible that rally cars are the same thing as stock-in-trade and rather than buying the cars for the business and creating a profitable trade they were bought for his own interest, whereby he used the business to offset the costs of his hobby. He disagreed and stated that this was the business of making profits through the sale of rally cars.

22. Evidence was given by Mr. [redacted], the Appellant's Tax Agent as follows:

(i) He stated that he has been the firms Auditor for the last 25 years. He mentioned that in 2016 when a rally car was purchased, the question arose how this car will be treated in the accounts of the Appellant.

(ii) When asked why there was nothing in the accounts to show the difference, he stated that the accounts are prepared in accordance with the Companies Act 2014 and that there is no requirement in the Companies Act to separate cars in a trading account or distinguish them as rally cars. He said you could do this for repairs or services but there is no requirement to do and so, therefore why would you. He stated that it is unfair to charge BIK on all cars, where you have a garage paying BIK for the use of the cars in the garage. He mentioned that it is the Respondent's practice to look at the type of cars sold and to take the average BIK on all cars in a garage.

(iii) He stated that there are two other cars which were purchased in 2020, a [redacted] and a [redacted] which have been capitalised in the Appellant's accounts as fixed assets, as these are used by the Director. He stated that their calculations have been done based on the VIES data and it is his understanding that all invoices have been

submitted to the Respondent. He said that he was aware that there are 5 cars at issue, in terms of the assessments raised.

(iv) Under cross examination, he was asked about the Appellant's intention to cease the sale of rally cars as set out in the Appellant's statement of case. He said that he did not understand the significance of that sentence when preparing the statement of case and that he may have misunderstood. He said that when he attended the initial meetings with the Respondent, he said that it was his understanding that they were talking about BIK and that it was obvious that these cars had been dealt with as stock-in-trade. He said that in his opinion he was replying to questions raised in relation to PREM and that the issue of stock-in-trade did not come up. He said that the personal use of cars was acknowledged in the 2017 rally car and the payment of BIK. He mentioned that he had consulted with Grant Thornton prior to preparing the responses and that the correspondence was framed to deal only with BIK hence why there was no reference to stock-in-trade.

23. Counsel for the Appellant made the following legal submissions:-

(i) The appeal turns on whether the Appellant was carrying on the trade of buying and selling rally cars, which commenced in or around 2016. The definition of trade must be considered.

(ii) That this is not a hobby as a rally car was capitalised in the accounts in 2017 specific to the Director, while other cars were treated in stock-in-trade. One of the cars were sold 14 days after it was rallied the other car was sold little over a month after it was rallied. That the dealership has in its showroom both rally cars and road cars and the picture has been submitted in respect of this.

Respondent

24. Counsel for the Respondent made the following submissions:-

(i) Reference was made to section 2 VATCA 2010, the definition of stock-in-trade and to the general limits as set out in section 60(2) VATCA 2010. All parties are agreed as to the applicable legislative provisions. Reference was also made to section 118 of TCA 1997.

(ii) That the Appellant must prove that the rally cars are stock-in-trade. Reference was made to the decision of *Menolly Homes Ltd v Appeal Commissioners and another,* [2010] IEHC 49 and that the burden of proof is on the Appellant.

(iii) There has been discrepancies in the evidence and differing accounts of the treatment of these cars. Firstly, they were used for personal use with an element of advertising and then the argument put forward was that they were stock-in-trade and were entitled to full deductibility in relation to VAT. Up to 2019, the Appellant did not argue these cars were stock-in-trade. If the Appellant treated the cars as stock-in-trade there would have been no need to seek a deduction for advertising. The VIES data shows that there was in fact five cars rather than four cars and certain invoices have not been submitted. The initial correspondence said that it was the intention to race and to advertise the Appellant.

(iv) The intention to trade is relevant. The Appellant is a [redacted] dealership engaged in selling new and used cars, service and spare parts. There was a unilateral decision of the Director, without consultation with the other Directors of the Appellant, to branch off into rally car sales. In addition, there is no business plan or references in the financial statements of the Appellant to the new venture. If this was an important business decision of the Appellant in 2016, it is not reflected in any of the documentation of the Appellant.

(v) The evidence does not support an intention to trade. The 2018 financial accounts show in or around €[redacted] in turnover, of which a very small percentage is in relation to rally cars. A new business must be capable of being profitable and there is no prospect of making a profit, such that it defies logic that these rally cars are part of a [redacted] business of in or around €[redacted]

(vi) Reference was also made to section 118 of TCA 1997. The Respondent has taken 5% of the value of each of the cars under this section and applied BIK on the basis that for each of the years the Director used company assets for his own personal use.

Material Facts

25. The Commissioner makes the following material findings of fact:-

(i) The Director has had an interest in rallying cars since he was young.

(ii) The Director rallied a number of cars of the Appellant for personal use and BIK arises in respect of the cars at issue.

(iii) There was no formal decision taken by the Appellant to venture into the sale of rally cars and the Appellant's accounts or Memorandum of Association do not reflect such a decision. Further, there was no business plan or formal minute of a decision of the Appellant to enter into this trade.

(iv) The evidence does not support an intention by the Appellant to trade rally cars.

Analysis

26. The general rule for VAT registered traders is that they are entitled to deduct VAT charged to them on purchases made for business purposes in accordance with the provisions of section 59 VATCA 2010. However, section 60 VATCA 2010 imposes restrictions in relation to the general deductibility provisions under section 59 VATCA 2010. In the case of motor vehicles, there are some limitations to this entitlement. Motor dealers who are registered for VAT are entitled to deduct the full amount of the VAT incurred on the purchase of all types of vehicles for use as stock-in-trade.

27. The Director's evidence was that in 2016, it was decided to develop a niche business in the purchase and sale of rally cars, in addition to the Appellant's business as a [redacted] dealership, buying and selling cars, in addition to service and parts. Notably, he stated that he had a keen interest in rally driving since a young child and thought there existed in the market an opportunity to make a profit He stated that that the rally car purchased in 2016, had a number of modifications made to it prior to it being rallied by him. He said that rallying the car was as much to test the modifications on the car for the Irish roads, as it was to secure a sale and advertise the business. The Commissioner has considered the evidence that the purchase of the 2017 rally car was intended as a rally car to be used by the Director and that the other rally cars, were purchased and processed as normal stock-in-trade. Whilst from time to time, the Director used the other rally cars included in stock-in-trade, this was done solely to promote the rally cars in an arena with prospective buyers in order to secure sales of the cars. The Director does not deny that these cars in stock-in-trade were rallied by him, but with the purpose of securing sales.

28. The Appellant argues that "*the use of a rally car, held in stock for resale, does not render it a fixed asset in the same way that a regular car held in stock is not deemed to be a fixed asset if used by a director or employee*". Contrary to that argument, it is the Respondent's position that the purchase of the rally cars by the Appellant were for use by the Director for the purposes of rallying and were not stock-in-trade. As such, there is no entitlement to a VAT deduction in relation to these cars. In addition, a BIK charge is due in relation to the Director's use of these cars.

29. The Commissioner has considered the Respondent's submission that it is pertinent that the Appellant initially accepted that these were rally cars purchased for use by the Director in participating in rallying activity and argued that despite their use by the Director, the Appellant should be entitled to a VAT input credit on their acquisition, as the use of the

cars in rallying could be regarded as an advertising or marketing expense. The Commissioner notes the Respondent's submission that "*it was only once this line of argument was rejected by Revenue that the company put forward the argument that these cars were purchased as stock in trade as part of the normal commercial activity of the company*".

30. The Commissioner finds that the rally cars do not meet the definition of stock-in-trade. Having regard to the definition of stock-in-trade provided for under section 2(1) VATCA 2010, the Commissioner is satisfied that the rally cars are not goods that the Appellant supplied in the ordinary course of the Appellant's business and they did not form part of the normal commercial or business activity of the Appellant. The Commissioner notes that there is no reference in the Appellant's Financial Statements for 2016, 2017, 2018 or 2019, indicating that the purchase and sale of rally cars formed part of its business and the Financial Statements confirm that "*The principal activity of the company is the sale and service of new and used cars and commercial vehicles, mainly through its* [redacted] *agency".* Whilst the evidence of the Appellant's Agent was that there is no requirement to do so, notably it was confirmed in evidence by the Director that this was, as such, a unilateral decision by him and there exists no minute, resolution or any other formal documentary statement of intention of the Appellant to start a niche business in rally cars. Likewise, the Memorandum of Association of the Appellant has not been amended to reflect this new venture into rally car sales

31. It is clear that the Appellant as a Dealership, is a large commercial operation. The Financial Statements for the years at issue show an annual turnover of in or around € [redacted] of which the rally cars make up a tiny percentage. The evidence of the Director was that these cars were a new commercial enterprise and the intention of venturing into this niche area was to make a profit, the objective of any commercial initiative. However, the evidence suggests that the cars were sold at a loss or for a marginal profit. The evidence does not support this venture as a profitable enterprise nor does the volume of cars sold suggest that. The Commissioner considered the Appellant's evidence that other Dealerships sell cars in niche areas of the market and the Appellant made reference to dealers such as Beshoff's in Malahide, Co. Dublin. The Commissioner has reviewed the aforementioned dealerships website which states that it is "*Dublin's Sports and Luxury Car Specialists*". However, the Commissioner is of the view that there is a distinct difference between this dealership and the Appellant. Beshoff's principal activity according to their website is the sale of sports and luxury cars, which may be considered a niche market in terms of sales. However, the Appellant's principal activity is the sale of [redacted] motors, not rally cars.

32. Further, the Commissioner cannot ignore that on initial discussion with the Respondent the Appellant maintained that these were rally cars purchased for use by the Director in participating in rallying activity and that the Appellant should be entitled to a VAT input credit on their acquisition, as the use of the cars in rallying could be regarded as an advertising or marketing expense. It was only later that the Appellant put forward the argument that these cars were purchased as stock-in-trade, as part of the normal commercial activity of the Appellant. In addition, the evidence was inconsistent in terms of the number of cars at issue and the intention to continue with the venture given the lack of initial profitability. The VIES data suggests that there are 5 cars that formed the basis of the Respondent's assessment and at the hearing of the appeal, the Appellant's agent accepted that.

33. In an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law; for example 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".*

34. The Appellant has not discharged the burden of proof to satisfy the Commissioner that the rally cars at issue meet the definition of stock-in-trade. The facts do not support the Appellant's position that the cars were supplied in the ordinary course of the Appellant's business in accordance with section 2 of VATCA 2010. Accordingly, there is no entitlement to a deduction of VAT under section 60 VATCA 2010.

35. Consequently, there is BIK due in relation to the use of each of these cars driven by the Director. The rally cars in question were purchased by the Appellant, driven by the Director at various rallies around Ireland and Europe, and then sold. In terms of the amount of BIK due, the Commissioner considered the arguments of the Appellant that BIK is applicable as there was personal use on the part of the Director, but that this should only arise on one car in accordance with normal practice in a garage that BIK is paid on the average of all cars. In contrast, the Respondent has calculated 5% of the value of each of the cars and applied BIK on the basis of its opinion that for each of the years the Director used company assets, which the cars are, for his own personal use. Moreover, the Respondent has pointed out that the rally cars were not held for long in stock and the BIK arises on

different cars. Having considered the facts and evidence adduced, in addition to section 119(4)(b) TCA 1997, the Commissioner is satisfied that the Respondent did not err in this regard and that BIK was calculated in accordance with the legislative requirements.

Determination

36. As such and for the reasons set out above, the Commissioner determines that the Appellant has failed in both appeals, in relation to VAT and BIK and has not succeeded in showing that the taxes are not payable. Accordingly, the assessments raised by the Respondent in relation to VAT and BIK stand.

37. The Commissioner appreciates this decision will be disappointing for the Appellant. However, the Commissioner is charged with ensuring that the Appellant pays the correct tax. The Appellant was correct to check to see whether its legal rights were correctly applied.

38. This appeal is hereby determined in accordance with Part 40A of the TCA1997 and in particular, section 949 thereof. This determination contains full findings of fact and reason for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 21 days of receipt in accordance with the provisions set out in the TCA 1997.

Claire Millrine
Appeal Commissioner
22 July 2022