



Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Introduction

1. This appeal comes before the Tax Appeals Commission (“the Commission”) pursuant to section 146 of the Finance Act 2001 (as amended) against a determination made by the Revenue Commissioners (“the Respondent”). The appeal concerns an amount of Vehicle Registration Tax [hereinafter “VRT”) charged pursuant to section 132(3)(a) 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.
2. This appeal has been determined, by agreement of the Parties, without an oral hearing pursuant to section 949U of the Taxes Consolidation Act 1997 [hereinafter the “TCA 1997”].

Background

3. The motor vehicle the subject matter of the within appeal is an [REDACTED]
[REDACTED] [hereinafter “the motor vehicle”) which was purchased by the Appellant on 13th January 2019 from [REDACTED], situated

in the UK. An invoice from [REDACTED] submitted by the Appellant is addressed to the Appellant at [REDACTED] and also has a “Deliver to” instruction to the Appellant at [REDACTED]. A UK Registration Certificate submitted by the Appellant notes that the “Registered Keeper” of the motor vehicle was the Appellant’s daughter, [REDACTED], at an address in [REDACTED] in the UK. It is dated 13th January 2019. The UK Registration Certificate states that the document is not proof of ownership but rather is states that it shows who is responsible for registering and taxing the motor vehicle.

4. The motor vehicle was brought into the State on 14th January 2019 by the Appellant and his wife. The Appellant claims that the ferry ticket for this journey was paid for by his daughter [REDACTED], although no proof of payment has been submitted to the Commission.
5. On 23rd July 2019 the motor vehicle was seized by the Respondent at [REDACTED] [REDACTED] as it was deemed liable to forfeiture pursuant to section 139 of the Finance Act 1992 (as amended). On the same date the Appellant’s daughter [REDACTED] completed a “Declaration on Release of Seized Vehicle” and €4,000 was paid for the release of the motor vehicle. As part of the release of the motor vehicle the Appellant’s daughter undertook to register the motor vehicle at the NCT Centre, [REDACTED] [REDACTED] and to pay all taxes and charges due, or to remove the vehicle permanently from the State, on or before 22nd August 2019. The undertaking given by the Appellant’s daughter [REDACTED] was not complied with and the motor vehicle was not registered at the [REDACTED] on or before 22nd August 2019 nor was it permanently removed from the State on or before 22nd August 2019.
6. The motor vehicle was registered by the Appellant on 31st December 2020 and the following VRT charges were imposed:
 - VRT due at the time of registration: €4,147.00
 - VRT due from the date of entry into the State: €2,973.00
7. By letter dated 17th February 2021, the Respondent offered to reduce the amount of VRT due from the date of entry into the State on the basis that that his daughter emigrated on 8th August 2019 and recalculated the amount of VRT due from the date of entry into the State from €2,973.00 to €1,994.00. The Appellant did not accept this offer.
8. The Appellant is disputing the amount of VRT charged as being due from the date of entry into the State as he claims that he purchased the motor vehicle from his daughter [REDACTED] in December 2020 and that prior to that date the motor vehicle was not used in the State

by anyone resident in the State. It is the Appellant's position that no VRT is due on the motor vehicle from the date of entry into the State.

9. The Respondent's position is that the original amount of VRT due from the date of entry into the State of €2,973.00 is the correct amount.

Legislation and Guidelines

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

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 (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 manufacture 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 20 days after its manufacture or arrival in the State.*

Submissions

Appellant's Submissions

11. The Appellant claims the following in his Notice of Appeal:

“I took ownership of this Car in December 2020 and got a vrt inspection with NCT asap. At no stage did myself or any person resident in Ireland drive this car until I took ownership of it. The only person to drive this car in Ireland was [REDACTED], a non resident until she left Ireland in August 2019. My other daughter, [REDACTED] who is also a non resident in Ireland drove this car while on vacation in Ireland in September 2019 and again in October/December 2020. [REDACTED] is a resident in USA. I attach proof of entering and leaving Ireland for the periods concerned”

12. In support of his claim the Appellant has submitted copies of Certificates of Insurance in his daughter [REDACTED] name for the motor vehicle from FBD Insurance valid from 13th January 2019 to 24th August 2019 and from 25th August 2020 to 24th August 2021. In addition, the Appellant has submitted a copy of a plane e-ticket in the name of [REDACTED] [REDACTED] with travel from [REDACTED] to [REDACTED] on 20th August 2019 and returning on 8th September 2019. He has also submitted a copy of a travel itinerary in the name of [REDACTED] from [REDACTED] for travel on 2nd January 2021.

Respondent's Submissions

13. The Respondent relies on the provisions of section 132(3A) of the Finance Act 1992 (as amended) and regulation 2 of the Vehicle Registration and Taxation Regulations 1992 (as amended).

Material Facts

14. The Appellant submits the following material facts are at issue in the within appeal:
- a. The motor vehicle was purchased on 13th January 2019 and was brought into the State on 14th January 2019.
 - b. The motor vehicle was owned by the Appellant's daughter [REDACTED] who was non-resident in the State and who left the State on 8th August 2019;
 - c. The Appellant purchased the motor vehicle from his daughter in December 2020.
15. The Commissioner has examined each of those material facts at issue.

The motor vehicle was purchased on 13th January 2019 and was brought into the State on 14th January 2019:

16. It is accepted by both Parties that the motor vehicle was purchased on 13th January 2019 and was brought into the State on 14th January 2019. The Commissioner also accepts these as material facts.

The motor vehicle was owned by the Appellant's daughter [REDACTED] who was non-resident in the State and who left the State on 8th August 2019:

17. The Appellant claims that the motor vehicle was owned by his daughter [REDACTED] who was non-resident in the State and who left the State on 8th August 2019. A UK Registration Certificate submitted by the Appellant notes that the "Registered Keeper" of the motor vehicle was the Appellant's daughter [REDACTED] at an address in [REDACTED] in the UK and is dated 13th January 2019. The UK Registration Certificate states that the document is not proof of ownership, rather it states that the certificate shows who is responsible for registering and taxing the motor vehicle.

18. The invoice from [REDACTED] which has been submitted by the Appellant is addressed to the Appellant at [REDACTED] and also has a "Deliver to" instruction to the Appellant at [REDACTED]. The Appellant has not submitted any evidence that the motor vehicle was purchased by his daughter [REDACTED]. The Commissioner does not accept that the Appellant's daughter [REDACTED] purchased the motor vehicle on the basis that no documentary evidence has been submitted which tends to support this claim and on the basis that the invoice dated 13th January 2019 is addressed to the Appellant and also on the basis that the Appellant brought the motor vehicle to the State one day later on 14th January 2019.

19. The Appellant further claims that his daughter [REDACTED] was non-resident in the State. The Appellant has not submitted any documentary evidence to support this element of his claim. The Commissioner notes that the vehicle was insured by FBD Insurance in Ireland in the name of [REDACTED] with an address at [REDACTED] from 13th January 2019 to 24th August 2019 and again from 25th August 2020 to 24th August 2021.

20. As with any taxation appeal, the burden of proof rests with the Appellant who must prove on the balance of probabilities that the disputed tax is not payable as set out by Charleton J. in *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49. The Commissioner finds that the Appellant has not discharged the burden of proof in this element of his claim. Therefore the Commissioner does not accept that the motor vehicle was owned by the Appellant's daughter [REDACTED], who was non-resident in the State and

who left the State on 8th August 2019. The Commissioner finds on the balance of probabilities that the Appellant purchased the motor vehicle on 13th January 2019 and that the Appellant was the owner of the motor vehicle since its purchase on 13th January 2019. The Commissioner makes this finding on the basis of the invoice documentation submitted by the Appellant. Therefore this material element of the Appellant's claim is not accepted.

The Appellant purchased the motor vehicle from his daughter in December 2020:

21. The Appellant has not submitted any documentary evidence which tends to support his claim that he purchased the motor vehicle from his daughter in December 2020. The Commissioner has already found on the balance of probabilities that the Appellant purchased and became the owner of the motor vehicle on 13th January 2019. Therefore this material element of the Appellant's claim is not accepted.

22. Therefore the following are the material facts which the Commissioner has accepted:

- The motor vehicle was purchased on 13th January 2019 and was brought into the State on 14th January 2019.

Analysis

23. The burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49, the burden of proof is, as in all taxation appeals, on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-

“This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the tax is not payable.”

24. Section 132(3A) of the Finance Act 1992 (as amended) provides that the amount of VRT due and payable on a motor vehicle shall be increased by an amount calculated by reference to the number of days the vehicle should have been registered in entering the State and actual date of registration. Where a vehicle is in the State for in excess of 30 days without being registered and additional VRT charge will apply upon registration as outline in accordance with section 132(3A) of the Finance Act 1992 (as amended) and regulation 2 of the Vehicle Registration and Taxation Regulations 1992 (as amended).

25. It is not disputed that the motor vehicle was brought to Ireland on 14th January 2019 by the Appellant. In order to comply with the legislation and regulations the motor vehicle should have been registered within 30 days of its arrival into the State. The vehicle was first registered in the State on 31st December 2020. There is no evidence before the Commissioner that the vehicle left the State at any time after 14th January 2019. The Commissioner notes that the motor vehicle was seized by the Respondent on 23rd July 2019 and that, on its release, an undertaking was given by the Appellant's daughter that

the vehicle would be registered within 30 days of that date. This undertaking was not complied with.

26. The Commissioner is not satisfied that the Appellant has discharged the burden of proof in this appeal and the Commissioner finds that the Appellant has not shown that the disputed tax is not payable.
27. The Commissioner finds that the calculation by the Respondent that VRT due from the date of entry into the State of €2,973.00 was correct. The Commissioner notes that the Respondent offered a compromise to the Appellant which was not accepted by the Appellant. The Commissioner finds that the Respondent is not bound by this compromise offer and that the full amount of VRT due from the date of entry into the State of €2,973.00 was due and owing on registration of the motor vehicle in the State. The Commissioner notes that the Respondent may seek to re-offer this compromise as a gesture of goodwill but the Commissioner has no authority to direct same.

Determination

28. For the reasons set out above, the Commissioner determines that the Appellant has failed in his appeal and has not succeeded in showing that the relevant tax was not payable.
29. It is understandable that the Appellant might be disappointed with the outcome of his appeal. The Appellant was correct to check to see whether his legal rights were correctly applied and in this instance, the Commissioner has found the Respondent acted according to the legislation.
30. This appeal is determined in accordance with Part 40A TCA 1997 and in particular, section 949U thereof. This determination contains full findings of fact and reasons 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.



Clare O'Driscoll
Appeal Commissioner
7th February 2022