



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

142TACD2024

Between

142TACD2024

[REDACTED]

**Appellant**

and

**REVENUE COMMISSIONERS**

**Respondent**

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**Determination**

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## Introduction

1. This is an appeal 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 by [REDACTED] (“the Appellant”) in relation to a decision made by the Revenue Commissioners (“the Respondent”) in a letter dated 8 January 2024 (“Decision Letter 8 January 2024”). The Appellant claims [REDACTED] is entitled to the application of preferential tariff treatment in the calculation of customs charges on the importation by [REDACTED] of a vehicle to the State (“Preferential Tariff Treatment”).
2. In accordance with the provisions of section 949U of the TCA 1997 and by agreement with the parties, this appeal is adjudicated and determined without a hearing.

## Background

3. The Appellant bought a [REDACTED] model motor vehicle (“the Vehicle”) in the United Kingdom (“the UK”). The Appellant engaged [REDACTED] as [REDACTED] agent (“the Appellant’s Agent”) to assist with the importation of the Vehicle into the State. A customs declaration form and payment were submitted electronically on the Respondent’s online automated import system (“the AIS”) on behalf of the Appellant. The declaration and payment made via the AIS were accepted by the Respondent on 19 September 2023. The Appellant claimed in the declaration that UK “preferential origin” applied to the importation of the Vehicle. The Appellant claimed Preferential Tariff Treatment was applicable to the assessment of the Vehicle by the Irish authorities based on “importer’s knowledge” of the originating status of the Vehicle. In support of the Appellant’s claim of UK preferential origin, the Appellant submitted a sales receipt, a certificate of conformity and the Vehicle’s logbook to the Respondent.
4. The Respondent made a finding that the documents submitted did not provide that the Vehicle had been manufactured in the UK. The Respondent issued a request to the Appellant’s Agent to forward a manufacturer’s report in support of the claim for preferential origin. On 20 September 2023 the Respondent received a reply from the Appellant’s Agent stating that the Appellant was unable to provide the requested documents and the customs duty on the Vehicle would be paid. The Agent asked the Respondent to allow them to make a change to the online form and change the preference for duty on the AIS. The amendment was received by the Respondent on 21 September 2023 and was accepted on 22 September 2023. The total VAT and duty liability was assessed at €3,420.25 with a breakdown of VAT €2,451.34 and Import Duty

of €968.81. The total amount was discharged and the Vehicle was released by the Respondent on 26 September 2023.

#### *First Stage Appeal*

5. The Appellant submitted an appeal to the Respondent on 29 November 2023. The Appellant submitted a further letter to the Respondent for consideration on 21 December 2023. The Respondent's Designated Appeals Officer ("DAO") issued the Decision Letter 8 January 2024 upholding the earlier decision of the Respondent and advised that a claim for "preferential origin" shall be based on a "statement of origin" as provided for in Article 54 (2) (a), Article 54 (3), and "importers knowledge" under Article 58 (1) & (2) of EU-UK Trade and Cooperation Agreement ("TCA"). The Respondent stated "[T]he Appellant went to considerable lengths to acquire the necessary documentary evidence to prove UK preferential origin. However, the documents and information provided to date does not afford Revenue satisfactory proof that said motor vehicle qualifies for preferential treatment. Accordingly, it is my determination that the legislation has been correctly applied by the case officer and there is no legal basis to uphold your claim."

#### *Second Stage Appeal*

6. On 29 January 2024 the Appellant submitted a Notice of Appeal to the Commission. The Appellant submits that the Respondent has incorrectly charged █████ customs duties in the sum of €968.91 arising on the importation by █████ of the Vehicle into the State. In the Notice of Appeal, the Appellant claimed:

*"I appealed to revenue to refund the customs fee charged of €968.91 as the █████ model I purchased was made in GB and I should not have had to pay a customs fee on this, as you can see on the customs document attached the country of origin is GB, I have also attached the conformity document with GB manufacture address. Further to that please find attached article stating clearly where █████' is manufactured in the U.K. I have also attached a screenshot of the article. Revenue have asked me for confidential detailed documents and/or statement of origin which is impossible to obtain from █████ or any other forum due to privacy rules. Please can you overturn revenues decision so I can I have the customs fees refunded, the fees I have had to pay have been really excessive and I have paid overall way more than its market value, I appreciate your consideration on this matter?"*

*Vehicle registration: █████*

*Please find the full article link showing vehicle manufacture location at:*



Article 55 of the EU-UK TCA: Time of the claim for preferential tariff treatment.

Article 56 of the EU-UK TCA: Statement on origin.

Article 58 of the EU-UK TCA: Importer's knowledge.

Article 59 of the EU-UK TCA: Record-keeping requirements.

Article 61 of the EU-UK TCA: Verification.

Article 63 of the EU-UK TCA: Denial of preferential tariff treatment.

Article 65 of the EU-UK TCA: Administrative measures and sanctions.

## **Submissions**

### *The Appellant*

10. The Commissioner sets out hereunder a summary of the submissions made by the Appellant, as set out in the Appellant's Statement of Case:

*"I am appealing the customs fee of €968.91 Revenue has charged me as the [REDACTED] [REDACTED] model I purchased was made / manufactured in GB which you can see on the customs document submitted to you the country of origin is stated GB, I have also attached the conformity document with manufacture address of my vehicle. Further to that I submitted an article stating where [REDACTED] is manufactured in GB, my vehicle was manufactured in 2015 and it correlates with the date in the article. I have unfairly been charged this fee which breaks European Union Law on customs charges, regulations are stated below, (CUU).*

*The European Customs Union the body that regulates imports and exports within the European Union. It eliminated customs duties and import restrictions among its member nations, and established and administers the tariff-free movement of goods among its member countries. There are no customs duties to be paid when goods are transported from one EU country to another."*

*"Revenue have requested documentation for proof of origin which is impossible to produce so I have done my own research and provided evidence based on [REDACTED] [REDACTED] media disclosure submitted previously in my appeal to the Tax Appeals Commission. I have also included regulations on European Law regarding movement of goods between its member countries."*

*The Respondent*

11. The Commissioner sets out hereunder an extract of the submissions made by the Respondent, as set out in its Statement of Case:

*“The appellant purchased a GB registered vehicle from a car dealer in the UK and payment was made on 25/08/2023. On submission of the required customs clearance declaration on Revenue’s Automated System (AIS), Customs Duty & VAT were charged on the import. The appellant is of the opinion that Customs Duty should not have been charged on the import. The appellant was unable to provide satisfactory proof that the said motor vehicle qualified for preferential treatment as claimed.*

*Statutory Provisions being relied on:*

*Article 77 (2) of the UCC*

*Article 77 (1) of Regulation (EU) No.952/2013 (UCC)*

*Article 85 of the UCC*

*Article 54 (2)(a) of the EU-UK TCA*

*Article 54 (3) of the EU-UK TCA*

*Article 58 of the EU-UK TCA*

*Article 61 (1) of the EU-UK TCA*

*Article 63 (1) (iii) of the EU-UK TCA*

*Outline of relevant Facts:*

*The appellant purchased a vehicle from a car dealer in the UK on the 25/08/2023.*

*A customs declaration was submitted electronically on AIS on behalf of the Appellant by [REDACTED] and accepted on 19/9/2023. The appellant claimed UK preferential origin Using ‘importer’s knowledge’ allowing the importer to claim preferential tariff treatment based on [REDACTED] own knowledge of the originating status of imported products in the form of supporting documents.*

*The appellant submitted a sales receipt, a certificate of conformity (CoC) & the v5 logbook to support the claim of UK preferential origin.*

*Documents provided did not show that said vehicle had been manufactured in the UK. A request issued to the appellant’s agent to forward a manufacturers report in support of the claim for preferential origin.*

On the 20/9/2023 a response was received from the customs agent acting on behalf of the appellant stating that the appellant was unable to provide the requested documents and would pay the Customs Duty on the vehicle. The Agent asked to set the MRN to amend to allow them to change the preference for duty. The amendment was received on 21/9/2023 and accepted 22/9/2023. The total Vat and duty liability of €3420.25 with a breakdown of VAT €2,451.34 and Import Duty of €968.81 was discharged and the vehicle was released on 26/9/2023.

The appellant submitted an appeal in November 2023. Revenue's Designated Appeals Officer issued a Notice of Determination on 8/1/2024 upholding the decision, advising that a claim for preferential origin shall be based on a 'statement of origin' as provided for in Article 54 (2) (a), Article 54 (3), and 'importers knowledge' under Article 58 (1) (2) of EU-UK TCA.

*Declaration:*

<i>Customs Duty</i>	<i>VAT</i>	<i>Total</i>
€968.81	€2451.34	€3420.25

*Tax in Dispute:*

<i>Customs Duty</i>	<i>VAT</i>	<i>Total</i>
€968.81		€968.81

*List of any written material that a party intends to rely on or produce in the proceedings.*

*Customs declaration under MRN* [REDACTED]

*DAO decision*

*COC provided by Appellant.*

*Screenshot of Promotional Material from* [REDACTED] *Website*

*V5 Log Book*

*Sales Invoice"*

### **Material Facts**

12. Having considered and assessed the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:



13. The Appellant made a claim for Preferential Tariff Treatment on the importation by [REDACTED] of the Vehicle into the State from the UK.
14. The Respondent refused the Appellant's claim for Preferential Tariff Treatment on the importation by [REDACTED] of the Vehicle into the State from the UK. The Respondent imposed customs charges in the amount of €968.81 and VAT in the amount of €2451.34 on the importation of the Vehicle.
15. The Appellant submitted an appeal to the Respondent on 29 November 2023. The Respondent's DAO issued the Decision Letter 8 January 2024 upholding the earlier decision of the Respondent and advised that the documents and information provided by/on behalf of the Appellant did not afford the Respondent satisfactory proof that the Vehicle qualified for Preferential Tariff Treatment.
16. The Customs Declaration Form was completed for and on behalf of the Appellant regarding [REDACTED] importation of the Vehicle into the State from the UK/GB and contained the following information:
  - 16.1 The Appellant with an address in County [REDACTED] is recorded as "the Importer".
  - 16.2 The amount of duties/taxes levied and paid by/on behalf of the Appellant were:  
Customs charges: €968.91 and VAT: €2,451.34: Total: €3,420.25.
  - 16.3 A third party individual with an address in the UK is recorded as "the Exporter".
  - 16.4 [REDACTED] with an address in County [REDACTED] is recorded as "the Representatives".
  - 16.5 The country of dispatch is recorded as "GB".
  - 16.6 The country of destination is recorded as "IE".
  - 16.7 The Origin Country is recorded as "GB".
  - 16.8 The item price recorded for the Vehicle was £8,000GBP.
  - 16.9 The applicable foreign exchange rate GBP to Euro was 0.85653.
  - 16.10 The Statistical value of the Vehicle was €9,689.08.

### **Analysis**

17. The Commissioner is bound by the prevailing legislation and guiding case law from the Superior Courts which has found, that in any appeal before the Commission, the burden of proof rests on the Appellant and that it is the Appellant who must satisfy the Commission at the threshold of the balance of probabilities, that an assessment to tax

made against them is incorrect. This binding legal principle was stated in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and Anor.* [2010] IEHC 49, wherein at paragraph 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”.*

18. The Commissioner also refers to paragraph 12 of the High Court case of *Menolly Homes*, wherein Charleton. J, stated:

*"Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute..."*

19. The Commission is a statutory entity and it can only lawfully operate within the confines of empowering and enabling legislation. The Commissioner refers to *Lee v The Revenue Commissioners* [2021] IECA 18, wherein Murray, J. stated at paragraph 76;

*“The jurisdiction of the Appeal Commissioners ..... is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of the TCA. That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of the TCA may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether Revenue are precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether Revenue have acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”*

20. The Commissioner refers to *Article 77 of the UCC: Release for free circulation and temporary admission*.

1. *A customs debt on import shall be incurred through the placing of non-Union goods liable to import duty under either of the following customs procedures:*

(a) *release for free circulation, including under the end-use provisions;*

(b) *temporary admission with partial relief from import duty.*

2. *A customs debt shall be incurred at the time of acceptance of the customs declaration.*

3. *The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.*

21. The Commissioner refers to *Article 85 of the UCC: General rules for calculating the amount of import or export duty*.

1. *The amount of import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.*

22. The Commissioner refers to *Article 3 of the EU-UK TCA*:

(c) *"exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;*

(d) *"importer" means a person who imports the originating product and claims preferential tariff treatment for it.*

23. The Commissioner notes that the above provisions provide who is liable for customs charges on imports and the manner in which customs charges are calculated. The Commissioner notes from the Customs Declaration Form that the Appellant is described thereon as "*the Importer*" and that the Vehicle was released by the Respondent upon payment of charges/tax for/on behalf of the Appellant in the amount of €968.91 in respect of customs charges and €2,451.34 in respect of VAT in the total amount of €3,420.25.

24. The Commissioner refers to *Article 54 (1) and (2)(b) of the EU-UK TCA: Claim for preferential tariff treatment*.

1. *The importing Party, on importation, shall grant preferential tariff treatment to a product originating in the other Party within the meaning of this Chapter on the basis*

*of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.*

*2.A claim for preferential tariff treatment shall be based on:*

*(b) the importer's knowledge that the product is originating.*

25. The Commissioner refers to *Article 58 (1) & (2) of the EU-UK TCA: Importer's knowledge.*

*1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), the importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.*

*2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2).*

26. The Commissioner has assessed the above provisions and notes that the Appellant is recorded on the Customs Declaration Form as the Importer and that as the Importer the Appellant shall be responsible for the correctness of the claim for Preferential Tariff Treatment and for compliance with the requirements provided for in the legislation.

27. The Commissioner refers to *Article 61 (1) & (5) of the EU-UK TCA: Verification.*

*1. The customs authority of the importing Party may conduct a verification as to whether a product is originating or whether the other requirements of this Chapter are satisfied, on the basis of risk assessment methods, which may include random selection. Such verifications may be conducted by means of a request for information from the importer who made the claim referred to in Article 54, at the time the import declaration is submitted, before the release of the products, or after the release of the products.*

*5. If the claim for preferential tariff treatment is based on the importer's knowledge, after having first requested information in accordance with paragraph 1, the customs authority of the importing Party conducting the verification may request the importer to provide additional information if that customs authority considers that additional information is necessary in order to verify the originating status of the product or whether the other requirements of this Chapter are met. The customs authority of the*

*importing Party may request the importer for specific documentation and information, if appropriate.*

28. The Commissioner notes the Appellant claims that [REDACTED] is entitled to Preferential Tariff Treatment because of [REDACTED] “*importer’s knowledge*” that the product is originating in the UK/GB as per Article 58(2)(b) of the EU-UK TCA.

29. The Commissioner refers to *Article 63 (1)(b) (ii) of the EU-UK TCA: Denial of preferential tariff treatment.*

*1. Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment, if:*

*(b) within three months after the date of a request for additional information pursuant to Article 61(5):*

*(ii) the information provided by the importer is inadequate to confirm that the product is originating;*

30. The Commissioner notes the Appellant claims [REDACTED] is entitled to the Preferential Tariff Treatment based on [REDACTED] knowledge of the Vehicle. The Commissioner notes the Appellant has supplied the following documentation in support of [REDACTED] claim for Preferential Tariff Treatment:

30.1 Decision Letter 8 January 2024.

30.2 Customs Declaration Form.

30.3 Screenshot of the Article/ Link to the Article:

[https://\[REDACTED\]](https://[REDACTED])  
[REDACTED]

30.4 Specifications/certificate of conformity form from [REDACTED]

31. The Commissioner notes that documents described as the Vehicle’s logbook and a sales receipt were submitted by the Appellant to the Respondent for the First Stage Appeal. The Commissioner has not had sight of the said documents but finds that nothing turns on this as the year of manufacture of the Vehicle (2015) is certified by the State’s vehicle registration number allocation to the Vehicle ([REDACTED]) and the price of the vehicle is recorded on the Customs Declaration Form and that no dispute has been raised with regard to these details by either of the parties. Accordingly, the Commissioner does not require sight nor inspection of the Vehicle’s logbook nor of the sales receipt.

32. The Commissioner refers to the enabling legislation set out above which provides for the manner in which parties who import goods and in this instance the Vehicle into the State from another country are assessed as to what amount of tax is due on the importation. The Commissioner finds that put simply, the nationality of the goods and in this instance the nationality of the Vehicle determines the rate of tax to be applied by the Respondent.
33. The Commissioner refers to the Decision Letter 8 January 2024 and “[T]he Appellant went to considerable lengths to acquire the necessary documentary evidence to prove UK preferential origin. However, the documents and information provided to date does not afford Revenue satisfactory proof that said motor vehicle qualifies for preferential treatment. Accordingly, it is my determination that the legislation has been correctly applied by the case officer and there is no legal basis to uphold your claim.”
34. The Commissioner notes from the Decision Letter 8 January 2024 that the Respondent has made a decision that the Appellant has failed to “.....afford Revenue satisfactory proof that said motor vehicle qualifies for preferential treatment.”
35. The Commissioner will now assess the material submitted for and on behalf of the Appellant and assess if the Commissioner finds that the Appellant has established that the Respondent erred in making the decision that the Appellant did not satisfy the statutory requirements to qualify for Preferential Tariff Treatment.
36. The Commissioner notes that a claim for Preferential Tariff Treatment shall be based on a “statement of origin” as provided for in Article 54 (2) (a), Article 54 (3), and “importers knowledge” under Article 54 (2) (b) and Article 58 (1) & (2) of EU-UK TCA.
37. The Commissioner notes that the Appellant claims █████ is entitled to Preferential Tariff Treatment on the basis of █████ knowledge as the Importer - the importer's knowledge that the product is originating.
38. The Commissioner refers to Article 58 (1) & (2) of the EU-UK TCA: Importer's knowledge and in assessment of the provision the Commissioner notes that it is a statutory requirement that in order to qualify for Preferential Tariff Treatment on the grounds of the Importer's knowledge, the Appellant's knowledge as the Importer shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in the legislation.
39. The Commissioner refers to Article 58(2) of the EU UK TCA which provides that before claiming the Preferential Tariff Treatment if an exporter deems that information relevant to the claim is confidential information, the exporter may provide a statement on origin so







## **Determination**

48. In conclusion, the Commissioner is satisfied that the Appellant has not met the burden of proof to establish that the Respondent was not entitled to make the decision as set out in the Decision Letter 8 January 2024 that the Appellant was not entitled to the application of Preferential Tariff Treatment on the importation by her of the Vehicle into the State from the UK/GB. The Commissioner determines that the decision of the Respondent as stated in the Decision Letter 8 January 2024 shall stand. The Commissioner makes this finding further to the provisions of section 949AK (1)(c) of the TCA 1997.
49. The Commissioner for the reasons set out above finds that the Appellant has not been successful in ■■■ appeal.
50. The Commissioner acknowledges that the Appellant was within ■■■ rights to seek an appeal of the Respondent's Decision Letter 8 January 2024. The Commissioner understands that the Appellant may be disappointed with the outcome of ■■■ appeal.
51. This Appeal is determined in accordance with Part 40A of the TCA 1997. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

## **Notification**

52. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication only (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

## **Appeal**

53. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

*Leonora B. Doyle*

Leonora B. Doyle  
Appeal Commissioner  
8 August 2024