



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

67TACD2026

Between

[REDACTED]

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This Determination concerns an appeal made to the Tax Appeals Commission (“the Commission”) under section 119 of the Value-Added Tax Consolidation Act 2010 (“the VATCA 2010”) of a decision of the Revenue Commissioners (“the Respondent”) of 8 January 2025. The decision in question was the Respondent’s refusal to repay to the Appellant Value Added Tax (“VAT”) that he incurred in his acquisition and installation of three items. These were a six-unit cluster flushing system, a variable speed milk pump and a single cell heat recover unit (“the items in issue”).
2. The Appellant’s claim for the repayment of the VAT that he incurred was made pursuant to Article 5 of SI 201 of 2012, entitled the Value-Added Tax (Refund of Tax) (Flat-rate Farmers) Order 2012 (“the 2012 Refund Order”). This entitles a “*flat-rate farmer*”, as defined in section 2 of the VATCA 2010, who has incurred VAT in respect of outlay on a farm building, structure, land or specific types of equipment, to the repayment of that VAT incurred. This repayment entitlement arises though a flat-rate farmer is by definition not an “*accountable person*” who themselves charges VAT to those who receive their agricultural goods or services supplied for consideration.
3. The issue that falls to be considered in this appeal is whether, for the purposes of the 2012 Refund Order, the VAT incurred by the Appellant as a consequence of his acquisition of the items in issue constituted “*outlay*” relating to “*the construction, extension, alteration, or reconstruction of any building or structure which is designed for use solely or mainly in [the Appellant’s] farming business.*”
4. Although represented at hearing by his tax agent, the Appellant was not in attendance. At the outset of the hearing, counsel for the Respondent applied to the Commissioner for the dismissal of the Appellant’s appeal on the grounds that he was required pursuant to section 949AA of the Taxes Consolidation Act 1997 (“the TCA 1997”) to attend. It also raised objection to the giving of any evidence by the tax agent in relation to matters of fact in dispute, in circumstances where the tax agent had indicated his desire to do so. Having heard from the parties on the matter, which included the provision of evidence regarding the inability of the Appellant to attend the appeal either remotely or in person to give evidence, the Commissioner decided that it was in the interests of justice to excuse the Appellant’s non-attendance in accordance with section 949AA of the TCA 1997 and permit the tax agent, who had previously attended the Appellant’s farm and inspected the items in question, to give evidence limited in strict terms to matters of relevant fact within his own personal knowledge.

Background

5. The Appellant is a flat-rate farmer who operates a dairy farm located in County [REDACTED]. On this farm is a building in use as the Appellant's dairy.
6. On 11 November 2022, the Appellant purchased the single cell heat recovery unit from the supplier [REDACTED] Limited. The price he paid was €8,172, of which €972 was VAT.
7. On 4 December 2022, the Appellant purchased the variable speed milk pump and six-unit cluster flushing system from the supplier [REDACTED] Services. The price paid for the former item was €3,405, of which €405 was VAT. The price paid for the latter item was €5,100, of which €600 was VAT.
8. The overall amount of VAT at issue in this appeal is therefore €1,977.
9. On 6 September 2024, the Appellant made a claim by means of the submission of a Form 58 return for the repayment of VAT that he had incurred in respect of the purchase and installation of the goods in issue in the milking parlour in his dairy building.
10. On 8 January 2025, the Appellant refused the Appellant's claim for the repayment of VAT incurred on the purchase and installation of the goods in issue. The reason given for refusal was that the claim was "*Not related to the construction, extension, alteration, reconstruction of farm buildings or structures, land reclamation or fencing [...]*."
11. On 23 January 2025, the Appellant appealed the Respondent's refusal of his claim to the Commission. In the grounds of appeal section of the Notice of Appeal, the Appellant stated "*Essential dairy equipment for the milking of dairy cows. VAT on equipment not refunded.*"
12. Later in the appeals process, the Appellant said in his Statement of Case that "*In essence a milking parlour is incomplete without the installation of items under appeal.*"

Legislation

13. It is worth observing at this point that the law governing VAT can be complex and difficult to navigate, even for practitioners in the area. In this part of the Determination the European Union ("EU") and domestic legislation relevant to the matter at issue in this appeal is set out.

EU Legislation

14. Title XII of Council Directive 2006/112/EC (“the VAT Directive”) makes provision for Member States to apply special schemes for VAT purposes. Chapter 2 of Title XII (Articles 295 to 305) makes provision for one such scheme applicable to farmers, namely the “*flat-rate*” scheme. In essence, under the flat-rate scheme Member States may permit farmers falling within the definition of a “taxable person” to nonetheless operate outside of the normal VAT system if they so choose. These farmers, known as “*flat-rate farmers*”, who by definition do not have the right to deduct VAT input costs they incur, may instead charge and retain an additional amount referred to as the “*flat-rate compensation percentage*” to the purchasers of their supplies of agricultural goods and services. This compensation is, as the name would suggest, calculated as a percentage of the consideration due to the farmer for the supply of their agricultural good or service.

15. Title XIII of the VAT Directive concerns derogations. Under Article 394 of the VAT Directive:-

“Member States which, at 1 January 1977, applied special measures to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance may retain them provided that they have notified the Commission accordingly before 1 January 1978 and that such simplification measures comply with the criterion laid down in the second subparagraph of Article 395(1).”

16. Article 27(1) of the Sixth Council Directive 77/388/EEC (“the Sixth Directive”) provided:-

“The Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Measures intended to simplify the procedure for charging the tax, except to a negligible extent, may not affect the amount of tax due at the final consumption stage.”

Domestic Legislation

17. A “*taxable person*” under the VATCA 2010 is defined as one who independently carries on a business in the community or elsewhere.

18. Section 5 of the VATCA 2010 provides, *inter alia*:-

“(1)

(a) Subject to paragraph (c), a taxable person who engages in the supply, within the State, of taxable goods or services shall be—

(i) an accountable person, and

(ii) accountable for and liable to pay the tax charged in respect of such supply.”

19. A “taxable good” or “taxable service” is a good or service the supply of which is not an “exempted activity”.

20. Under section 4(1) of the VATCA 2010, “farmer”:-

“[...] means a person who engages in at least one Annex VII activity, and –

(a) whose supplies consist exclusively of either or both of the following:

(i) supplies of agricultural produce

(ii) supplies of agricultural services

[...]”

21. Section 6 of the VATCA 2010 is entitled “*Persons not accountable persons unless they so elect*”. Under section 6(1) a farmer shall not be an accountable person unless they so elect.

22. Under section 2 of the VATCA 2010 a “*flat-rate farmer*” is defined as “*a farmer who is not an accountable person.*”

23. Part 10 of the VATCA 2010 concerns “*Special schemes*” and section 86 of the VATCA 2010, which appears in this Part, concerns “*Special provisions for tax invoiced by flat-rate farmers*”. The effect of section 86 is that, in issuing invoices in respect of supplies of agricultural produce or services, flat-rate farmers charge an amount for the good or service supplied plus a “*flat-rate addition*” equal to a percentage of the consideration due for the supply.

24. Under section 103(1) of the VATCA 2010 the Minister for Finance may:-

[...] by order provide that a person who fulfils to the satisfaction of the Revenue Commissioners such conditions as may be specified in the order shall be entitled to be repaid so much, as is specified in the order, of any tax borne or paid by the person as does not qualify for deduction under Chapter 1 of Part 8.”

25. On 12 June 2012, in the exercise of the powers conferred on him by section 103 of the VATCA 2010, the Minister for Finance made the 2012 Refund Order. Article 2 of the 2012 Refund Order defines a “qualifying person” as:-

“[...] a flat-rate farmer who has incurred tax in relation to an outlay on –

(a) the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly in his or her farming business,

(b) the fencing, drainage or reclamation of any land intended for use for the purposes of his or her farming business, or

(c) the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business.

where such building, structure, land or qualifying equipment is for use in that farming business for a period of not less than one year commencing on the date the tax was incurred.”

26. Under Article 3 of the 2012 Refund Order:-

“An unregistered person who establishes to the satisfaction of the Revenue Commissioners that he or she is a qualifying person, and who fulfils the conditions specified in Article 4, shall be entitled to be repaid the tax specified in Article 7.”

27. Article 4 of the 2012 Refund Order provides:-

“The conditions to be fulfilled by an unregistered person are as follows:

(a) he or she shall claim a repayment of the tax by completing such claim form as may be provided for that purpose by the Revenue Commissioners and certify the particulars shown on such claim form to be correct;

(b) he or she shall produce –

(i) the invoices or other documents, issued or given to him or her for the purposes of Chapter 2 of Part 9 of the Act, or

(ii) the receipts for tax paid on goods imported,

showing the tax incurred by him or her which is the subject of the refund claim;

(c) if requested to do so by the Revenue Commissioners, he or she shall produce the plans, specifications or other documentary evidence in relation to—

(i) the construction, extension, alteration or reconstruction of a building or structure which is designed for use solely or mainly for the purposes of his or her farming business,

(ii) the fencing, drainage or reclamation of any land intended for use for the purposes of his or her farming business, or

(iii) the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business,

in respect of which the claim for a refund of tax is being made;

and

(d) he or she shall have complied with all the obligations imposed on him or her by the Act, the Income Tax Acts, the Corporation Tax Acts or the Capital Gains Tax Act, and any instruments made thereunder, in relation to—

(i) the payment or remittance of the taxes, interest and penalties required to be paid or remitted thereunder, and

(ii) the delivery of returns.”

28. Under Article 5 of the 2012 Refund Order:-

“A registered person who is a qualifying person shall, subject to the conditions specified in Article 6, be entitled to reclaim the tax specified in Article 7 as if such tax were deductible tax under Chapter 1 of Part 8 of the Act, but such tax shall be deemed to have been refunded for the purposes of Article 9.”

29. Under Article 7 of the 2012 Refund Order:-

“The amount of tax to be repaid in accordance with Article 3 or reclaimed in accordance with Article 5 shall, subject to Article 8, be the tax incurred which the qualifying person shows to the satisfaction of the Revenue Commissioners to be referable solely to outlay which relates to—

- (a) *the construction, extension, alteration or reconstruction of that part of the building or structure which was designed solely for the purposes of a farming business and has actually been put to use in such a business carried on by him or her,*
- (b) *the fencing, drainage or reclamation of any land which has actually been put to use in such a business carried on by him or her, or*
- (c) *the construction, erection or installation of qualifying equipment for the purpose of micro-generation of electricity for use solely or mainly in his or her farming business.”*

30. Of relevance to this Determination is that under SI 267 of 1972 Value-Added Tax (Refund of Tax) (No 1) Order, 1972 (“the 1972 Refund Order”), unregistered persons who incurred VAT in connection with outlay on “*the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly for the purpose of a farming business*” were, as under the 2012 Refund Order, entitled to repayment of such VAT incurred.

Evidence

Appellant’s evidence

31. The Appellant’s agent gave evidence at the hearing of the appeal. In so doing, he commented on photographs that he had taken of the six-unit cluster flushing system and the 500 litres single cell heat recovery unit. No photos were provided of the variable speed milk pump.
32. The Appellant’s agent first gave evidence in relation to the six-unit cluster flushing system. He said that this system was comprised of six units in the shape of boxes that were attached onto the Appellant’s pre-existing milking machine, located in the dairy building. The function of each of the units was to flush the “clusters” used to milk the Appellant’s cattle with peracetic acid and hot water, thereby cleaning them, in order to prevent the spread of mastitis among the herd. The Appellant’s agent said that in the absence of the system, the cleaning of the clusters had to be done by the Appellant with a hose or ‘gun’. Asked by counsel for the Respondent whether the cluster flushing system was an “enhancement” to the milking machine, the Appellant’s agent agreed. Counsel for the Respondent then asked the Appellant’s agent whether the cluster flushing system could be uninstalled from the milking machine. The Appellant’s agent’s reply was that this was not something the Appellant was likely to do.

33. The Appellant's agent then gave evidence in relation to the single cell heat recovery unit. He said that it was a device that heated cold water by means of energy generated in the refrigeration of milk. This water was stored in a cylindrical tank forming part of the unit and then used in the cleaning of the clusters. The Appellant's agent stated that the co-operative that purchased the Appellant's milk made it a requirement that its suppliers use water heated in this manner. This had precipitated the Appellant's purchase of the unit.
34. The Appellant's agent was asked in cross-examination whether the cylindrical tank forming part of the heat storage unit was affixed in any way to the ground. He said that he understood that it was not bolted to the ground and was "*fitted flat on the dairy floor*".
35. The Appellant's agent gave evidence in relation also to the variable speed milk pump. He said that this was an item used to move the milk extracted by the clusters to the bulk tank. There had previously been a pump fitted in the dairy and that the variable speed version was an improvement on what was previously used. The Appellant's agent stated that the pump was "*integral to the dairy system*".
36. In cross-examination, counsel for the Respondent put it to the Appellant's agent that in 2012 he had made a claim under the flat-rate scheme for VAT incurred in respect of, among other things, his purchase and installation of a milking machine and feeding unit in his dairy. Counsel for the Respondent said that this claim had been allowed. The Appellant's agent answered that this was correct. Counsel further put it to the Appellant's agent that the milking machine had been in operation for many years prior to the purchase of the items in issue. They were, she stated, an enhancement to the system. The Appellant's agent accepted that they were an enhancement. However, he also said that their purchase was necessitated by the demands of the co-operative that purchased the Appellant's milk.

Submissions

Appellant

37. The Appellant's agent submitted that the Appellant's claim for the refunding of VAT incurred should be allowed in circumstances where the milking of cows could not occur without the items in issue.
38. The Appellant's agent further submitted that the overall system relating to the refunding of VAT operated unfairly in relation to flat-rate farmers. If, for example, a VAT-registered farmer purchased a tractor, the VAT incurred in that purchase would be refundable to them. However, when the flat-rate farmer, who he said tended to be the smaller scale

farmer, sought the refunding of the same VAT, their claim was refused. The Appellant's agent submitted that this was not in the interests of farming in Ireland in an overall sense.

Respondent

39. Counsel or the Respondent submitted that under Article 7 of the 2012 Refund Order, a flat-rate farmer could claim the refunding of VAT incurred relating to the "*construction, extension, alteration or reconstruction*" of a farm building or structure.
40. Counsel for the Respondent submitted that, as tax relieving legislation, the wording of the 2012 Refund Order had to be interpreted strictly. In support of this submission, counsel for the Respondent cited the judgment of McDonald J in *Perrigo Pharma International DAC v McNamara* [2020] IEHC 552, in particular paragraph 74 therein. Thus, were the Commissioner to be of the view that there was doubt as to whether the Appellant's outlay on the items in issue related to the construction, extension, alteration or reconstruction of a farm building or structure, then the claim for the repayment of the VAT in question had to be refused.
41. Counsel for the Respondent submitted that it was in any event clear that the Appellant's claim in respect of the VAT incurred on the purchase and installation of the items in issue was correctly refused. There was, she stated, no evidence of construction, extension, alteration or reconstruction works arising from the Appellant's purchase and installation of the items in issue. The Commissioner should thus confirm the decision under appeal.
42. In so submitting, counsel for the Respondent relied on the previous Determination of the Commission, bearing the reference 202TACD2025, concerning a refusal to repay a claim made by a flat-rate farmer under the 2012 Refund Order. There, it was found that installing an automatic calf feeder in a dairy building by bolting it to the ground and connecting it to the water and electricity supply did not relate to "*reconstructing*" or "*altering*" that dairy building. On foot of this finding, it was held that the VAT incurred by the flat-rate farmer in question on the installation of the automatic calf feeder did not fall to be refunded.

Material Facts

43. The following are the facts material to the determination of this appeal:-
 - (i) the Appellant is a dairy farmer;
 - (ii) the Appellant is not an accountable person registered for VAT;

- (iii) on 11 November 2022, the Appellant purchased the single cell heat recovery unit. The price paid was €8,172, of which €972 was VAT;
- (iv) on 4 December 2022, the Appellant purchased a variable speed milk pump. The price paid was €3,405, of which €405 was VAT;
- (v) on 4 December 2022, the Appellant purchased and six-unit cluster flushing system. The price paid was €5,100, of which €600 was VAT;
- (vi) the single cell heat recovery unit heat recovery unit was comprised of a 500 litre cylindrical tank, into which water heated from energy generated in the cooling of milk was pumped;
- (vii) the cluster flushing system was comprised of six boxes, which were attached on to the Appellant's milking machine. Pipes, running from these boxes to the milking machine clusters delivered hot water mixed with peracetic acid for cleaning purposes;
- (viii) the variable speed milk pump was installed in the dairy building so as to pump milk from the milking machine to the Appellant's bulk tank;
- (ix) on 6 September 2024, the Appellant made a claim by way of the filing of a Form 58 return for the repayment of the VAT that he incurred on the purchase of the single cell heat recovery unit, the six-unit cluster flushing system and the variable speed milk pump;
- (x) on 8 January 2025, this claim was refused by the Respondent;
- (xi) on 23 January 2025, the Appellant appealed this refusal to the Commission.

Analysis

- 44. The legislation at the heart of this appeal, namely the 2012 Refund Order, is secondary legislation made by the Minister for Finance. The effect of the 2012 Refund Order is that flat-rate farmers who incur VAT on specific kinds of expenditure may claim the refund of that VAT.
- 45. The 2012 Refund Order was made by the Minister for Finance pursuant to the powers given to him by the Oireachtas under section 103 of the VATCA 2010. This provides that the Minister may make provision for the refunding of VAT incurred by a person meeting prescribed conditions, which VAT that person is not entitled to deduct under the usual rules set out in section 59 of the VATCA 2010.

46. The conferral on an unregistered person who is engaged in economic activity of the right to obtain the refund of VAT incurred in the course of that activity, even though that person has by definition no taxable output, constitutes a derogation from the general principles of the VAT system laid down under the VAT Directive (see *Iberdrola Inmobiliaria Real Estate Investments* (Case C-132/16) paragraph 28). The legal basis in the VAT Directive for this derogation is Article 394 therein, which allows Member States to retain “*special measures*” in place as of 1 January 1977, provided those measures were notified to the Commission by 1 January 1978. The 1972 Refund Order, which reflects the terms of the 2012 Refund Order, constitutes the special measure in place as of the date in question that was capable of retention.
47. In order for a flat-rate farmer to be allowed a refund under the 2012 Refund Order, the outlay in question must fall clearly within the meaning of the tax referred to in Article 7 therein. That this is so, is apparent from the judgment in *Perrigo Pharma International DAC v McNamara & Ors*, where, at paragraph 74, McDonald J set out in detail the following guiding principles concerning the interpretation of legislation, in particular taxing legislation:-

*“The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in *Dunnes Stores v. The Revenue Commissioners* [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in *Bookfinders*. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:*

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: “... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that”;

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766:

“Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible.”

48. The Commissioner observes that although what is at issue is secondary legislation not passed by the Oireachtas, he considers that as a matter of law the above passage constitutes the correct approach to the interpretation of the 2012 Refund Order. In short, what must be done is to establish the plain meaning of the words used in the legislation, viewed in context, in order to find whether the VAT incurred as part of the outlay on the items in issue is refundable by the Respondent to the Appellant.
49. In this appeal, the question is whether the Appellant’s outlay on the purchase and installation of the items in issue constituted outlay relating to *“the construction, extension, alteration or reconstruction of any building or structure which is designed for use solely or mainly in his or her farming business.”* Applying the interpretive approach outlined by

McDonald J in *Perrigo Pharma International DAC v McNamara & Ors* [2020] IEHC 552, the Commissioner is satisfied that it does not. This is so for the following reasons.

50. Regarding the interpretation of the 2012 Refund Order, the Commissioner finds that the use in combination of the words “*construction*”, “*extension*”, “*alteration*” or “*reconstruction*” indicates a clear intention on the part of the legislature that, in order to be refundable under Article 7(a) of the 2012 Refund Order, the outlay in respect of which VAT is incurred by a flat-rate farmer must “*relate*” to building work that is carried out to a farm structure.¹
51. As noted already in this appeal, the Appellant did not give evidence himself, though his agent did so to the best of his ability, limiting himself to matters within his own knowledge. It is clear to the Commissioner from this evidence that each of the items in issue was purchased and installed in the dairy building in order to improve efficiency of the milking process and to prevent the spread of infection among the herd. There was no evidence that their installation involved any construction or reconstruction carried out the dairy building. To the extent that there was “*alteration*” work done to anything in connection with the purchase and installation of the goods in issue, it was alteration to the milking machine in situ since 2012. There was no alteration to the dairy building. For this reason, the Commissioner finds that the Appellant’s claim was correctly refused and the decision under appeal stands.
52. During the appeal hearing, the Appellant made arguments regarding the fairness of the decision to refuse the claim. In *Lee v Revenue Commissioners* [2021] IECA 18, the Court of Appeal held that the function of an Appeal Commissioner is limited in strict terms to deciding whether a decision of the Respondent is correct having regard to legislation enacted by the Oireachtas and signed into law. An Appeal Commissioner is not empowered to disapply legislation for reasons of perceived unfairness or inequity. As such, the Commissioner cannot, in deciding the Appellant’s appeal, take into account the Appellant’s own circumstances, or the circumstances more generally of flat-rate dairy farmers in a position similar to his own. The Commissioner has not done so.
53. For the foregoing reasons, the Respondent’s decision to refuse the Appellant’s claim for the refund of VAT incurred on the purchase of the goods in issue is found to be correct and stands.

¹ In this regard, the Commissioner notes that Oxford English Dictionary defines “*construction*” as “*the action or process of constructing, building, assembling, or making something, or of causing something to be constructed or made*”, “*extension*” as “*an addition to (esp. the rear of) a house or other building*”, “*alteration*” as “*a change in the character or appearance of a person or thing; an altered condition*” and “*reconstruction*” as “*the action or process of rebuilding*”.

Determination

54. The Respondent's decision of 8 January 2025 to refuse the Appellant's claim for the repayment of VAT in the overall amount of €1,977, incurred in respect of the purchase and installation in the Appellant's dairy building of the goods in issue, specifically a 500 litre single cell heat recovery unit, a six-unit cluster flushing system and a variable speed milk pump, is found to be correct and shall stand.
55. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

56. 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

57. 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.



Conor O'Higgins
Appeal Commissioner
14 April 2026