



41TACD2021

BETWEEN/

REDACTED

Appellant

-and-

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Appeal

1. This is an appeal to the Appeal Commissioners pursuant to section 146 of the Finance Act, 2001 (as amended) against a determination made by the Revenue Commissioners. The appeal concerns an amount of vehicle registration tax charged pursuant to section 132(3A) of the Finance Act, 1992 (as amended) on the basis that the vehicle was not registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992) (as amended), being within 30 days of the date of arrival of the vehicle in the State.
2. The amount of tax involved is €640.



3. On agreement of the parties this appeal is adjudicated without a hearing in accordance with section 949U of the Taxes Consolidation Act, 1997.

Facts

4. The vehicle, the subject matter of this appeal, is a Citroen Grand C4 Picasso 1.6 HDI (110) VTR + 5DR, first registered in the United Kingdom, now bearing registration number **REDACTED**. The vehicle was brought into the state on 11 March 2016 and was not registered until 27 March 2017.
5. The Appellant registered the vehicle and paid VRT of €1,680 based on an open market selling price (OMSP) of the vehicle as determined by the Revenue Commissioners. In addition, the Appellant paid additional VRT in the form of a late registration charge of €640 due to the vehicle not being registered within 30 days of being brought into the state.
6. The Appellant appealed to the Revenue Commissioners under section 145 of the Finance Act, 2001 (as amended) against the application of the additional VRT of €640 in relation to the late registration of the vehicle. On appeal the late registration charge was not repaid by the Revenue Commissioners. This was notified to the Appellant by letter dated 7 April 2017. The Appellant was aggrieved by the determination of the Revenue Commissioners and appealed to the Appeal Commissioners against the amount of the additional VRT of €640 in relation to the late registration of the vehicle.
7. These facts are not in dispute between the parties.

Legislation



8. Regulation 8 of the Vehicle Registration and Taxation Regulations, 1992 (as amended) provides:

“(1) (a) A person not being an authorised person who manufactures or brings into the State a vehicle which is not exempt from registration under section 135 of the Act shall –

- (i) make an appointment for a pre-registration examination with the competent person concerned not later than 7 days after the manufacture or arrival in the State of the vehicle, and*
- (ii) register the vehicle to the satisfaction of the Commissioners not later than 30 days after its manufacture or arrival in the State.”*

Submissions

9. The Appellant submitted:

- a) That he brought the car into Ireland on 11 March 2016 but was refused registration by the Respondent at that time because the car was not in running order.
- b) That he presented the car after repairs for registration on 27 March 2017.
- c) That he expended an amount of €195 in relation to repairs and storage charges for the vehicle.
- d) That the correct date for registration of the vehicle is 27 March 2017 rather than 11 March 2016.
- e) That the Respondent had refunded him the additional VRT imposed on another vehicle in similar circumstances.

10. The Respondent submitted:

- a) That the additional VRT was charged because the Appellant failed to register the car within 30 days of importation.



- b) That the Statutory provision in relation to the matter is contained in Section 132(3A) of the Finance Act 1992 as amended.
- c) That the vehicle was imported to the State on 11 March 2016.
- d) That the additional VRT charge was correctly applied as the vehicle concerned was in the state for over one year before being registered.
- e) That despite efforts to address the issue of storage and repair costs for the vehicle the parties were unable to arrive at a compromise in the matter of the additional VRT charge.
- f) That the precedent submitted by the Appellant was a once off refund in respect of a seized vehicle.

Analysis and findings

11. All vehicles are subject to VRT on first registration in the State. Section 132(3A) of the Finance Act, 1992 (as amended) provides that the amount of VRT due and payable shall be increased by an amount calculated by reference to the number of days from when the vehicle entered the State to the date of registration of the vehicle.
12. The Appellant was notified by letter dated 7 April 2017 that a refund of the late VRT charge could not be made as the vehicle should have been registered on or before 10 April 2016.
13. The Appellant has sought to have the late registration VRT charge refunded and submitted that the vehicle was not road worthy and was presented for registration when repaired.
14. The Revenue website contains full information on the documents required for registration, the time line (7 days from arriving in the State) for making a pre-



registration appointment with the NCTS and the time line for having the registration completed (30 days from the vehicle entering the State) to avoid additional charges to VRT.

15. I have noted from previous first stage appeals to the Revenue Commissioners under section 145 of the Finance Act, 2001 (as amended) involving varying VRT charges, that in some cases Revenue waived the late registration charge in an effort to resolve the issue in advance of a hearing before the Tax Appeals Commission. The Respondent provided the TAC with all the correspondence between the parties in the matter. I am satisfied that the Respondent made every effort to consider the views of the Appellant in relation to the appropriateness of the late registration charge in this case and through no fault on its part was unable to resolve the issue amicably.

16. In appeals before the Tax Appeals Commission, the burden of proof rests on the Appellant who must prove on the balance of probabilities that the assessment to tax, raised by the Respondent is incorrect. I determine that the Appellant has not succeeded in discharging the burden of proof and has not succeeded in showing that he qualifies for a refund of the additional VRT paid due to the late registration of the vehicle.

17. 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.'*

Determination





18. In the circumstances, and based on a review of the facts and the submissions, material and evidence provided by the parties, I am satisfied that the Appellant has not complied with the requirements of Regulation 8 by registering the vehicle on 27 March 2017 which is more than the 30 days prescribed therein. Where a vehicle has not been registered within 30 days of its arrival in the State, an additional amount of VRT is due and payable in accordance with the formula set out in Regulation 8 of the Vehicle Registration and Tax Regulations 1992.
19. I determine that the Respondent has correctly applied the additional VRT of €640 in accordance with Section 132(3A) of the Finance Act, 1992.
20. The appeal hereby is determined in accordance with section 949AL TCA 1997.

CHARLIE PHELAN
APPEAL COMMISSIONER

14 JANUARY 2021

