

Appeal No. VA89/0/032 - 35

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**P. F. Freight Limited**  
**Aseco Limited**  
**Securiforce Limited**  
**James Scott & Company (Dublin) Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Lot No. 10b (pt of) Russell Street, Ballybough B, County Borough of Dublin  
Quantum - Recent Circuit Court decision followed

**B E F O R E**

**Paul Butler**

**Barrister (Acting Chairman)**

**Mary Devins**

**Solicitor**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 22ND DAY OF FEBRUARY, 1990**

By notices of appeal each dated the 3rd day of August 1989, the above named appellants appealed against the fixing by the Commissioner of Valuation of the above referred to hereditaments at £24 (Valuation Appeal 89/32), £60 (Valuation Appeal 89/33), £47 (Valuation Appeal 89/34) and £168 (Valuation Appeal 89/35).

At the commencement of the hearing of these appeals it was agreed between the parties that the same should be heard together.

All of the above described hereditaments form part of a modern office block in Russel Street completed in 1985. The building is constructed principally of concrete wall with brick facing. The rear wall has an outer cladding of asbestos sheeting. The roof is of asbestos slate and there is a service-access to the side, carparking to the front is provided.

A new three storey over semi-basement building was erected and completed in 1985.

Accommodation was as follows:-

- A. Vehicle repair workshop on semi-basement floor
- B. Car sales showroom on ground floor
- C. Offices on first floor
- D. Offices on second floor.

The former store which had been converted into a garage was let into two portions; the ground floor as office and workshop/store and the lower ground floor as workshop. Tanks and fuel dispensing equipment had been removed by 1985.

Westward Dublin Ltd leased the first and second floor offices of the new building to James Scott & Co (Dublin) Ltd (one of the above named appellants) for 10 years from the 1st July 1985 at the annual rent of £22,500, the tenant being responsible for rates, repairs and insurance and subject to five year reviews of rent.

The said James Scott & Co (Dublin) Ltd took a lease of the ground floor a year later at a rent of £14,000 per annum subject to review and due to expire at the same time as that of the upper floors.

The ground floor showroom together with offices, canteen etc. (part of former house), flat (balance of house) and the forecourt were valued on 1985 annual revision at £135.

The first and second floor offices were also valued in 1985 at £175 and £165 respectively.

The respondent on first appeal reduced the £135 item to £130 and also apportioned the latter at £100 to Westward Dublin Ltd and £30 to Intertool Ireland Ltd, a company which had leased the offices, canteen, stores and toilets part of the former house on a full repairing and insuring basis at £4,160 per annum for five years from the 1st October, 1985.

No changes were made in the £175 or in the £165 valuations on first appeal.

Notices of appeal to the Circuit Court were lodged against the £100, £175 and £165.

The £100 was reduced by agreement to £80 including a sum of £9 on the flat on the same terms as had been indicated as acceptable to the appellant at first appeal.

The valuation of £175 and £165 were reduced to £85 and £74 respectively by the Circuit Court.

The premises were listed for revision in 1988, the result whereof was there being valued as follows, namely:-

- (1) £165 on the ground floor
- (2) £300 on the first and second floors combined
- (3) £65 on Intertool Ireland Ltd (the subject matter of Valuation Appeal 89/31).

The total valuation on the ground, the first and the second floors on 1988 revision was £465.

On first appeal the Commissioner reduced the total valuation of £465 to £364 but apportioned the latter as shown on a schedule annex to the submission of Patrick J Nerney (hereinafter referred to) to take account of the fact that the appellant James Scott & Co (Dublin) Ltd had made short term lettings of portions of the premises mainly on a year to year basis and at inclusive rents.

A written submission dated the 15th September, 1989 by Patrick J Nerney, Rateable Valuation Consultant, Valuer and Auctioneer, was presented on behalf of all of the appellants and the same is annexed to this judgment at Appendix "A". Four undated submissions (each received on the 18th September, 1989) dealing respectively with each of the above appeals and each by William M Walsh B.Agr.Sc. F.R.I.C.S. and a Chartered Valuation Surveyor and District Valuer in the Valuation Office were presented on behalf of the respondent and the same are together appended to this judgment at Appendix "B".

At the oral hearing which took place in Dublin on the 22nd September, 1989 the appellants were represented by Pdraig Kelly BCL Solicitor of Strokestown of Co Roscommon. Mr William M Walsh above referred to appeared on behalf of the respondent.

The following also gave evidence on behalf of the appellant, Mr James Calary, Managing Director of Westward Dublin Ltd, Mr Ted O'Neill, Managing Director of James Scott & Co (Dublin) Ltd and the above referred to Mr Patrick J Nerney.

Because of the findings hereinafter referred to the Tribunal finds it unnecessary to summarise the same.

In the course of the oral hearing it was submitted and contended on behalf of the appellants that the total valuation on the ground, first and second floors on 1988 revision was £465 which was

more than double the valuation fixed by the Circuit Court at the hearing of the earlier appeals as recently as February, 1988. It was further submitted and contended that no material change had taken place in any of the above described hereditaments in the interim.

While the Tribunal is not necessarily bound by a decision of the Circuit Court, nonetheless in previous cases it has been influenced by Circuit Court decisions, particularly when the same are recent. In these appeals the respondents decision was made within 18 months of the Circuit Court finding. Having regard to this and to the fact that there has been no obvious material change in any of the said premises the Tribunal will be guided by the findings of the Circuit Court.

Following the oral hearing the parties, at the request of the Tribunal, agreed, inter alia, all the rateable valuation which would apply to each of the hereditaments if the Circuit Court judgment of 1988 were to be distributed proportionally. By document dated the 15th December, 1989 (Appendix "C") the parties agreed such apportionment as follows:-

VA89/32	£ 14.20
VA89/33	£ 24.64
VA89/34	£ 32.67
VA89/35	£122.00.

Accordingly, the Tribunal finds that the correct valuations of the above hereditaments should be fixed as indicated in the preceding paragraph hereof.