Appeal No. VA09/3/005

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 2001

VALUATION ACT, 2001

Centocor Biologics (Ireland) Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Property No. 935773, Factory at Lot No. 16AB, Barnahely, Carrigaline, Cork Lower, County Cork.

B E F O R E

Fred Devlin - FSCS.FRICS	**Deputy Chairperson**
Joseph Murray - B.L.	**Member**
Patrick Riney - FSCS FRICS FIAVI	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF DECEMBER, 2009

By Notice of Appeal dated the 6th day of July, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €15,200 on the above-described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:
"The Valuation is excessive and inequitable - Quantum issues."

1. This appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 14th day of October and the 11th, 16th & 18th day of November, 2009.

2. At the hearing the appellant was represented by Mr. Alan McMillan, ASCS, ARICS, MIAVI a Director of GVA Donal O Buachalla, Property and Rating Consultants. Mr. Jonathan Sowerbutts BSc, BE (Hons), the Director of Engineering, Centocor Biologics (Ireland) Ltd. gave evidence in relation to the construction and specification of the manufacturing building of the property concerned and a comparative analysis of this in relation to three pharmaceutical premises referred to as being comparable in Mr. McMillan's evidence. Mr. Terrence Dineen, a Valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation.

The Property Concerned

3. The property concerned is a newly built bio-pharmaceutical facility in Ringnaskiddy about 20 kilometres south west of Cork City. Ringaskiddy is a long-established location for the pharmaceutical industry and many leading international companies in this sector have large manufacturing facilities in this area.

4. The Centocor Bio Medicine Facility is designed for the manufacturing of anti-bodies and/or therapeutic products derived from Mammalian culture. Bio medicines are derived from naturally occurring proteins whereas traditional drug products are synthetic compounds. The production process at the Centocor premises is a continuous two stage process which takes seven months to carry through from initial cell culture to the point at which the final formulated product is frozen and subsequently transferred off-site to another plant where it is further processed before distribution to the end user.

5. The subject property in an extensive complex consisting of four main buildings.
    - The Production Building
    - The Administration and Laboratory Building
    - The Warehouse
    - The Central Utilities Plant (CUP)

The supporting site infrastructure includes a utilities yard, waste water treatment plant and underground services, roads, tanks and car-parking.

Rating History

6. The subject property was first listed for revision in 2007 and on the 8th of November 2007 a certificate was issued by the revision officer to the effect that it was proposed to determine the rateable valuation of the property concerned in the sum of €6,230. Following representations made by the appellant a certificate was issued on the 6th of December, 2007 confirming the original assessment of €6,230. In due course an appeal was lodged pursuant to section 30 of the Valuation Act, 2001 and on the 11th of July, 2008 the appellant was notified that the Commissioner of Valuation had disallowed the appeal and hence the rateable valuation of €6,230 was affirmed. The appellant did not appeal this decision of the Commissioner to the Valuation Tribunal.

7. In 2008 the property was again listed for revision as a result of which the Revision Officer issued a certificate on the 4th of November, 2008 to the effect that it was now proposed to assess the rateable valuation of the property concerned at a figure of €15,370. Representations were made by the appellant and on the 2nd of December, 2008 a Valuation Certificate was issued confirming the rateable valuation at €15,370. Following an appeal to the Commissioner of Valuation the rateable valuation was reduced to €15,200. The appellant being dissatisfied with the decision of the Commissioner of Valuation lodged an appeal to this Tribunal under section 34 of the Valuation Act.

8. At the 2007 revision three of the main buildings in the complex were valued i.e. the administration building and laboratory, the warehouse and the central utilities plant (CUP) together with some items of the rateable plant and the car-park containing 281 spaces. At that time the manufacturing building was under construction and deemed to be not capable of beneficial occupation and hence not valued.

9. In 2008 the manufacturing plant was in production and the Revision Officer carried out a revision of the valuation of the property concerned under section 28(4) of the Valuation Act, 2001 to include the manufacturing plant and other miscellaneous items of plant etc. not valued at the 2007 Revision.

The Appellant's Evidence

10. Mr. Jonathan Sowerbutts BSc, BE (Hons).

Mr. Sowerbutts is the Director of Engineering at the Centocor facility. In his evidence Mr. Sowerbutts outlined in some detail the nature of the construction and specification of the manufacturing building and the manufacturing process taking place therein. Mr. Sowerbutts also compared the structure and specification of the manufacturing buildings in three other pharmaceutical plants which Mr. McMillan, for the purpose of his valuation, cited as being comparable to the subject property.

Mr. Sowerbutts' evidence may be summarised under four main headings as follows.

(a) The Manufacturing Building

The manufacturing building is a three-storey structure with two floors used for production purposes with a plant room and stores overhead. The construction and specification of this building is as set out below:

- The building is built on cast concrete foundations.
- The building has a steel frame construction.
- The only fire rated rooms are electrical and storage rooms.
- The building's external wall finishes are steel cladding panels.
- The building has a bitumen roof.
- The two production and plant room floors are reinforced concrete slab.
- Walls of the two production levels are constructed from clean room plastic panelling.
- Both production floors have a walk on ceiling.
- Windows are double glazed with normal glass.
- Doors are finished factory steel.
- The finish of the floors on the two manufacturing levels is a combination of epoxy resin or mipolam vinyl flooring on less trafficked areas.
- The floors in the plant room are waterproof epoxy paint.
- The building is fitted with two good lifts – standard specification not explosion rated.

- The building is fitted with supply and return HVAC, most production areas are ISO 8, class 100,000 with 20 air changes per hour. Two small rooms are classed as ISO 7.
- The building is fitted with a sprinkler system.
- Production areas are fitted with recessed fluorescent lights.

The two floors used for production purposes have a ceiling height of 9 metres and a working height of 3.15 metres. The void over the suspended ceiling allows for the routine servicing and maintenance of associated items of plant, ducts and pipework located therein at full working height. The plant room area has a minimum headroom of 5 metres. The nature of the manufacturing process and the necessary plant is substantially different from that to be found in typical chemical pharmaceutical plants and hence the building does not have to cater for the extensive pipework and equipment found in such facilities and which provide high temperature heating, low temperature cooling, high pressure, vacuum and organic solvents etc.

(b) The Manufacturing Process

The major ingredients in the manufacturing process are air, water and carbon dioxide and it is operated at ambient temperature and pressure. Whilst there is a significant level of equipment in the plant it is not saturated with pipe work etc. associated with the chemical pharmaceutical industry. The process however is sensitive to contamination and hence care must be taken to ensure that all products remain contained within the process equipment. All materials in contact with the process are washed and autoclaved prior to use. This is the primary form of the protection of the product.

In order to prevent contamination all production areas are maintained in a clean condition and designed to at least class 100,000 (ISO 8) standards. Internally the layout of the construction area provided at each floor:

- Production/clean grounds.
- Airlocks and service/access corridors – both around the perimeter of the building on three sides and through a central corridor.

- Technical spaces which house utilities equipment and service areas for production items – the specification of these rooms would be similar to the plant room, and
- Gowning/de-gowning rooms and toilets.

(c) Comparative Analysis

Mr. Sowerbutts said he was asked by Mr. McMillan to compare the construction and specification of three pharmaceutical plants with those to be found at the Centocor facility. Mr. Sowerbutts said that he was familiar with the three plants in question – Janssen, Pfizer Hovione SDD and the Schering-Plough Fermentation Plant. Whilst there are differences between the types of manufacturing processes being carried out at each facility, the process itself is contained within the manufacturing equipment. Essentially all the buildings in his analysis are of typical pharmaceutical industry design, construction and specification and the production areas designed to minimal 100,000/ISO8 standards, corridors to pharmaceutical grade and technical areas to good industrial standards.

Under examination by Mr. Dineen, Mr. Sowerbutts confirmed that he was familiar with all the properties he had referred to in his evidence in terms of their use, construction, specification and fit-out. When asked if he had any comment to make in regard to the Pfizer Ballybricken OSP4 plant (Mr. Dineen's comparison number 5) Mr. Sowerbutts said he was not familiar with it and hence could not make any comment on its design, construction or specification.

Mr. Alan McMillan's Evidence

11. Prior to the oral hearing Mr. McMillan submitted to the Tribunal and the respondent a précis of the evidence and valuation that he proposed to adduce at the hearing and which he subsequently adopted as being his evidence-in-chief given under oath.

In his précis Mr. McMillan put forward a valuation of the entire facility as follows:

Reception/Administration/Office Building

Ground Floor:	2,357 sq. metres	@ €68.34 per sq. metre	= €161,077
First Floor:	2,184 sq. metres	@ €68.34 per sq. metre	= €149,255
Second Floor:	2,199 sq. metres	@ €75.17 per sq. metre	= €165,299

Third Floor:	959 sq. metres	@ €34.17 per sq. metre	= € 32,769
Subtotal			= €508,400
Warehouse			
Ground Floor:	2,192 sq. metres	@ €81.96 per sq. metre	= €179,656
Mezzanine:	505 sq. metres	@ €50.00 per sq. metre	= € 25,250
Subtotal			= €204,906
Manufacturing			
Ground Floor:	3,450 sq. metres	@ €130.00 per sq. metre	= €448,500
First Floor:	3,450 sq. metres	@ €130.00 per sq. metre	= €448,500
Second Floor:	3,000 sq. metres	@ € 54.67 per sq. metre	= €164,010
Subtotal			= €1,061,010
Cup			
Ground Floor:	2,540 sq. metres	@ €73.76 per sq. metre	= €187,350
Mezzanine:	671 sq. metres	@ €45.00 per sq. metre	= € 30,195
Subtotal			= €217,545
Link Corridor			
Ground Floor:	450 sq. metres	@ €34.17 per sq. metre	= € 15,377
First Floor:	450 sq. metres	@ €20.50 per sq. metre	= € 9,225
Subtotal			= € 24,602
Waste Water Treatment Plant			= € 30,914
"Near Access"			
Ground Floor			= € 6,971
First Floor			= € 10,114
Subtotal			= € 17,085
Miscellaneous			
Car Spaces	281	@ €76.14	= € 21,395
Boilers			= € 7,667

Water Tanks	= € 5,800
Brine Tanks	= € 1,000
Diesel Tanks	= € 1,000
Generators	= € 5,000
Cooling Tower	= €10,000
Motive Power	= €12,697
Nitrogen/Co2/Argon Tanks	= € 4,000
Piping	= €10,600
Retention Pond	= €10,000
Subtotal	= €89,159
TOTAL NAV	**= €2,153,621**
RV @ 0.5%	= €10,768

A reduction to RV €10,768 is sought

12. In support of his opinion of net annual value Mr. McMillan relied upon three comparisons:

1. Pfizer Loughbeg API (now Hovione)

SDD Plant agreed –

Manufacturing: 4 floors @ 1,080 sq. metres = 4,320 sq. metres @ €130.00 per sq. metre

Plant Room agreed: 668 sq. metres @ € 54.67 per sq. metre

2. Pfizer Loughbeg API

CB1 Extension - €215 per sq. metre sought by Mr. Dineen

€116 per sq. metre determined by Tribunal.

3. Schering – Plough

Fermentation Building – agreed

Manufacturing: 7 floors	@ total	750 sq. metres @ €102.47 per sq. metre
Plant Room: 2 floors	@ total	376 sq. metres @ € 20.50 per sq. metre

13. In regard to his second comparison Mr. McMillan referred to the judgment of the Valuation Tribunal in respect of this property **VA05/3/054 – Pfizer Ireland Pharmaceuticals** issued on the 20th January, 2006. At the hearing of this appeal Mr. McMillan had appeared on behalf of the appellant and Mr. Dineen on behalf of the respondent.

14. When the Tribunal drew Mr. McMillan's attention to Finding number five in this judgment Mr. McMillan agreed that his valuation methodology in this appeal was different to that put forward by him in the **Pfizer** case. In the circumstances Mr. McMillan amended his valuation to reflect the change in valuation methodology. Mr. McMillan's amended valuation is summarised below as follows:

2007 Revision

Net Annual Value	=	€1,246,000

2008 Revision

Net Annual Value

Manufacturing Plant (Ground floor):	3,450 sq. metres	@ €91.50 per sq. metre	= €315,675
Manufacturing Plant (First floor):	3,450 sq. metres	@ €91.50 per sq. metre	= €315,675
Second floor:	3,000 sq. metres	@ €54.67 per sq. metre	= €164,010
Access Office (Ground floor):	102 sq. metres	@ €68.34 per sq. metre	= € 6,971
Access Office (First floor):	148 sq. metres	@ €68.34 per sq. metre	= € 10,114
Link Corridor (First floor):	450 sq. metres	@ €20.50 per sq. metre	= € 9,225

Miscellaneous Items

Motive power	(agreed)	€12,697
Diesel Tank	(agreed)	€ 1,000
Retention Pond	(agreed)	€10,000
Pipework	(agreed)	€10,600
Tanks (4)	(agreed)	€ 4,000
NAV		= €2,105,967
Rateable Valuation @ 0.5%		Say €10,500

Note: Mr. McMillan pointed out that since he prepared his valuation contained in his précis he has become aware of a revision carried out at the Janssen Plant in Little Island where the production area at three levels was valued at €91.50 per sq. metre. This building, he said, was similar in construction, specification and other featured material to the manufacturing building in Centocor and this was an opinion shared by Mr. Sowerbutts.

15. In his evidence Mr. McMillan said the principal area of difference between him and Mr. Dineen was the appropriate rate per sq. metre to be applied to the manufacturing building. In his opinion Mr. Dineen's rate of €215 per sq. metre was unsustainable and does not reflect the tone of the list for a property of this type in the Cork area.

16. Under examination by Mr. Dineen, Mr. McMillan agreed that he had agreed the valuation of the Pfizer/Hovione Plant at €130 per sq. metre. He also agreed that the manufacturing area in this plant was at four levels in a building that was about 17 metres high – i.e. approximately 4.5 metres per floor. Mr. McMillan said he had agreed this valuation in light of the Valuation Tribunals judgment in the Pfizer/Loughbeg AP1 Plant (Comparison number 2). He also agreed with Mr. Dineen that from a construction point of view the Pfizer building was largely similar to the Centocor manufacturing building.

17. When questioned about the manufacturing process carried on in the property concerned Mr. McMillan agreed that it was different to that carried out at Pfizer/Schering Plough and Janssen's. Whilst the processes were different, Mr. McMillan said, the buildings were substantially the same in terms of construction and specification. He agreed, however, that the Centocor building was different in one major respect, in that the floor height was 9 metres as against a typical 4 to 4.5 metres height in the other plants but opined that this would not necessarily be reflected in a greatly increased rate per sq. metre. He also agreed that the subject manufacturing building was air-conditioned but could not say that the specification of the building was higher than that found at other pharmaceutical plants. When asked if the internal fit-out and the level of sub division at each production level in the subject property was higher than the norm, Mr. McMillan said the nature of the manufacturing process dictated the internal layout. Whether or not the layout was greater than normal was not something that would effect the rateable valuation of the property.

18. When asked why he had amended his valuation of the manufacturing building from €130 per sq. metre as put forward in his précis submitted to the Tribunal to €91.50 per sq. metre in his amended valuation, Mr. McMillan said that this was due to the information that had just come to his attention in relation to the Janssen Plant.

The Respondent's Evidence

19. Having taken the oath Mr. Dineen adopted his précis and valuation which had previously been received by the Tribunal and the appellant as being his evidence-in-chief.

In his evidence Mr. Dineen contended for a rateable valuation of €15,207 calculated as set out below:

2008 Revision			
Production (ground & first floors):	6,901 sq. metres	@ €215.00 per sq. metre	= €1,500,915
Plant area (second floor):	3,034 sq. metres	@ €82.00 per sq. metre	= € 248,788
Spine corridor (first floor)	450 sq. metres	@ €41.00 per sq. metre	= € 18,450
Access (office standard):	102 sq. metres	@ €68.34 per sq. metre	= € 6,970
Overhead:	148 sq. metres	@ €68.34 per sq. metre	= € 10,114
Miscellaneous Items			
Horsepower			= € 12,697
Diesel Tank			= € 1,000
Retention Pond			= € 10,000
Piping			= € 10,600
Liquid nitrogen			= € 1,000
Gaseous nitrogen			= € 1,000
CO2			= € 1,000
Argon			= € 1,000
Sub Total NAV			**= €1,806,334**
RV @ 0.5%			= € 9,031
Total RV for 2007 and 2008:	€6,176 + €9,031		= € 15,207

Note: the Net Annual Value stated for the property valued for the 2007 Revision is slightly less than that derived from the rateable valuation that currently appears on the valuation list i.e. rateable valuation €6,230 = NAV €1,260,000.

20. In support of his opinion of net annual value Mr. Dineen introduced 12 comparisons, details of which are set out in Appendix 1 attached to this judgment.

21. Mr. Dineen's précis also contained an alternative valuation annotated as being "Section 50 valuation". Details of this valuation are set out below:

Section 50 valuation

2007 Revision	
Rateable spend	€65,700,000
Site value 6 hectares @ €65,000/Ha	€ 390,000
	€66,090,000
Adjust to 1988 with	
Tender price index 1998 to mid 2007 [108.3 to 152]	
And SCS Construction Cost Index 1988 to 1998 [100 : 143]	€31,622,000
NAV @ 5%	€ 1,581,100
RV @ 0.5%	€ 7,905
2008 Revision	
Rateable spend	€97,680,000
Site value 6 hectares @ €65,000/Ha	€ 390,000
	€98,070,000
Adjust to 1988 with	
Tender price index 1998 to mid 2007 [108.3 to 152]	
And SCS Construction Cost Index 1988 to 1998 [100 : 143]	€46,923,000
NAV @ 5%	€ 2,346,150
RV @ 0.5%	€ 11,730

Total Section 50 valuation 7,905 + 11,730 = RV €19,635.00

22. In his evidence Mr. Dineen said he was well experienced in valuing large pharmaceutical plants due to of the fact that he had been the revision officer in the Cork area for over 30 years. Ringnaskiddy, Mr. Dineen said, was the centre of the pharmaceutical industry in Ireland and the Pfizer complex was the largest in the area.

23. By virtue of his experience Mr. Dineen said he had a good understanding of the various manufacturing processes which took place in pharmaceutical plants and such like. In his opinion it was important to establish the procurement cost of a plant so as to compare that cost with the cost of other plants of a similar type and to have regard to the relationship so

established in order to arrive at the appropriate valuation of the plant which was the subject of the revision.

24. Mr. Dineen said that in his opinion there were a number of pharmaceutical plants in the Ringnaskiddy area and that being so he could not understand why Mr. McMillan sought to rely on comparisons drawn from Little Island (the Janssen Plant) and the Schering-Plough facility in the Cork Upper area.

25. Mr. Dineen said the subject property was the first of its type and whilst there were many similarities to typical pharmaceutical manufacturing plants the biomedicine manufacturing process was substantially different and required a manufacturing building to unusually high standards of construction, specification and fit-out. In particular, Mr. Dineen drew attention to the fact that each production level had a floor to ceiling height of 9 metres and a working height of 3.15 metres.

26. In relation to his comparisons Mr. Dineen considered his Comparison number 5 (Pfizer Ballybricken OSP4) to be the most relevant. This plant, he said, cost €260,000,000 in 2000 of which €123,000,000 was deemed to be in respect of rateable items. Using the "Contractors Basis of Valuation" this gave rise to a rateable valuation of €20,000 by reference to building costs at November 1988. On a similar basis, the valuation of the manufacturing building at the property concerned would give a figure of €11,730 on the basis of a rateable spend of €98,000,000.

27. Under examination Mr. Dineen said his valuation was prepared in accordance with section 49(1) of the Valuation Act i.e. on a comparative basis. However, he had also determined the valuation of the manufacturing building under the contractor's basis and in accordance with section 50 of the Act had taken 5% of the actual cost adjusted to 1988 levels in order to arrive at its NAV in the sum of €2,346.50 (RV €11,730). It was his opinion that both valuation methods were of equal merit and rating case law supported this view.

28. When asked if he considered the valuation of the Janssen facility to be a relevant comparison, Mr. Dineen said that having discussed the details of this valuation with the Revision Officer, Mr. Paschal Conboy, he came to conclusion that it was not a valid comparison. Moreover, he said, it was not located in Ringnaskiddy where there was an extensive body of comparable

evidence. He agreed, however, that it was a 2009 valuation prepared in accordance with section 49(1) and under section 63 of the Act it had to be deemed that this was its correct valuation.

29. When asked if he was of the opinion that the valuation of pharmaceutical plants prepared on a contractor's basis was more relevant than one prepared using the comparative method of valuation Mr. Dineen answered in the affirmative.

30. When Mr. McMillan presented Mr. Dineen with a schedule showing the relationship between the rateable cost of the Janssen Plant valued at the 2009 revision and the rateable cost of the manufacturing building of Centocor, Mr. Dineen agreed that the costs were approximately the same on a rate per sq. metre basis. He further agreed that the calculation and comparative analysis of the costs prepared by Mr. McMillan seemed to indicate that the valuation of the manufacturing building of Centocor might be excessive. Mr. Dineen said that whilst he accepted the figures put forward by Mr. McMillan as figures this should not be interpreted that he agreed with his conclusion, it being his own opinion that there were substantial differences in the construction of the two facilities and their location.

31. When asked to comment on Mr. Sowerbutts' evidence, Mr. Dineen said that he did not consider his evidence to be particularly relevant in that it did not highlight the difference in the floor to ceiling height in the manufacturing building at the property concerned nor did he comment upon the extensive fit-out which in his opinion was to a higher standard than that to be found in typical pharmaceutical plants.

Findings and Conclusions

1. The method of valuing property on foot of a revision carried out under section 28(4) of the Valuation Act as set down in section 49(1) which states. "*If the value of a relevant property (in subsection (2) referred to as the 'first-mentioned property') falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property*" In other words the value of the property concerned is to be determined by reference to "the tone or the list".

2. This appeal extended over four sittings of the Tribunal and during the course of the hearings many issues arose, some of which could and should have been resolved by the parties before the commencement of the oral hearing.
3. It is fair to say what Mr. Mc Millan and Mr. Dineen are highly experienced in the valuation of pharmaceutical plants in the Cork region. It is, therefore, surprising that they each put forward significantly different opinions of net annual value in respect of the manufacturing building.
4. Common knowledge indicates that large scale pharmaceutical complexes are subject to ongoing extensions and subsequent revisions of valuation in accordance with sections 28 and 49 of the Valuation Act. It would appear that the practice adopted by the Valuation Office and rating consultants at these revisions is to take the existing valuation as the starting point and to add on the valuation of the new additions as determined in accordance with section 49. In this regard the following extracts from the Tribunal judgment in Appeal No. **VA05/3/054 - Pfizer Ireland Pharmaceuticals** are of some relevance:

   (a) "Mr. McMillan said that in arriving at his opinion of net annual value he had adopted the same valuation methodology as used on earlier revisions: i.e. to assess the valuation of the new accommodation by comparison with established levels of net annual value within the plant and to add on or bolt on the valuation so determined to the existing valuation. This practice, he said, was well-established and used on many occasions."(Paragraph 6 page 4 of 5).

   (b) "It would appear that the practice adopted with each revision has been to value the most recent extension independently by reference to prevailing levels of value and to add the valuation so determined onto the existing valuation of the entire plant."(Finding No. 5 page 4 of 5)

   (c) "The property concerned in this appeal is the entire complex and not just the most recent extension. However, in arriving at their respective opinions of net annual value both of the valuers followed the established practice of valuing the additional accommodation in isolation and then bolting on the valuation so determined to the existing assessment, the only point of divergence being the appropriate rate per sq. metre to be adopted to the new space. (Finding No. 9 page 4 of 5)

   (d) "Mr. Dineen's approach in looking at prevailing levels established in the area and not just within the plant itself is consistent with Section 49. That said, however, it does not mean that the existing levels applicable to the buildings CB1 and CB2 can or must be disregarded.

All evidence of value is relevant but most weight must be given to that comparison or comparisons which most closely resemble the property to be valued in terms of location, nature of construction, design, configuration and use." (Finding No. 10, page 5 of 5).

5. Having regard to the findings of the Tribunal in the **Pfizer** appeal the starting point for the 2008 revision is the valuation of the property concerned determined by the Commissioner of Valuation at the 2007 revision and which was not appealed by the appellant i.e. €6,230.
6. The Tribunal is indebted to Mr. Sowerbutts for the detailed information contained in his evidence in relation to the manufacturing building and the nature of manufacturing process carried on therein. His evidence in relation to the construction, specification, layout and fit-out of the manufacturing building and his comparative analysis of them in relation to the Janssen Plant 3, Pfizer/Hovine SDD plant and the Schering Plough Fermentation Plant was of particular assistance to the Tribunal in arriving at its conclusions and determinations.
7. The Tribunal accepts as a matter of fact that the biotechnology process is significantly different from the process carried out at typical pharmaceuticals plants. However, as Mr. Sowerbutts was at pains to point out, this does not mean that the construction and specification of a biotechnology plant is materially different and this is borne out by his comparative analysis of the manufacturing building at Centocor and the three other pharmaceutical plants referred to in his evidence under various headings. The Tribunal accepts Mr. Sowerbutts' evidence in this regard but with some reservations which we will touch on later in this judgment. (See Finding No. 13)
8. It is common case that the pharmaceuticals and the biotechnology manufacturing process are highly specialised and sophisticated. As a consequence the design, configuration, specification, internal finishes, fit-out and the range and quality of mechanical and electrical and other necessary services are to a higher standard than those found in other industries. In this regard it is fair to say that the nature and scale of the manufacturing process and the necessary equipment dictates the design, configuration, internal layout and finishes of the manufacturing building. The Centocor manufacturing building is different from all others referred to and introduced as comparators for valuation purposes in that each of the two production levels have a floor to ceiling height of 9 metres. Moreover, the extent and quality of the internal fit-out and the level of sub-divisions are in our opinion greater than that found in conventional pharmaceutical plants. These are material factors which must be taken into account when arriving at the valuation of the manufacturing building.

The Valuation Evidence

9. Mr. McMillan in his evidence introduced details of the valuation of manufacturing building at four pharmaceutical plants which are valued at sq metre rates ranging from €91.50 (Janssen Plant 3) to €130 (Pfizer Hovine). It is noted that in his précis of evidence originally forwarded to the Tribunal and to the respondent, Mr. McMillan valued the manufacturing building at €130 per sq. metre. However, when information came to his attention that the Janssen Plant 3 facility had been valued at €91.50 per sq. metre at the 2009 revision, Mr. McMillan submitted an amended valuation of the property concerned wherein he valued the manufacturing building at €91.50 per sq metre. This was quite a remarkable change of opinion influenced as it is by a single assessment - the Janssen Plant 3 valuation.
10. Mr. Dineen in his evidence listed 12 comparisons most of which cannot be considered relevant. Indeed only comparisons 4, 5, 6, and 7 relate to pharmaceutical plants and of them Mr. Dineen placed most reliance on comparison number 5. The Pfizer Ballybricken 0SP plant. This building was described as being "a stand-alone multi-purpose bulk pharmaceutical manufacturing plant built around a single fluid heating/cooling system. It comprises a five storey manufacturing building, a five-storey goods building…." The rateable valuation of this plant was valued on appeal "on a contractors basis or a modified version thereof" according to Mr. Dineen. Mr. Dineen also commented "a detailed break down of the resultant valuation was not agreed but €215 per sq. metre on the production element is not unreasonable and that is why this price was put on the hydrogenation addition in the 2003 Revision (Comparison Number 4). Mr. Dineen's comparison number 6 is of little assistance as it lacks any detail of what in fact was agreed. Comparison number 7 (Pfizer Loughbeg) was also valued "on the basis of expenditure" but again limited information or breakdown is provided.
11. The contractors basis of valuation is primarily used when valuing properties of a type or category which are rarely, if ever, let on the open market so that there is no source of reliable rental evidence. A valuation prepared using the contractor's basis essentially stands on its own, particularly in regard to a new facility where the actual costs will form the basis of the assessment. As such any analysis of the valuation so determined must be treated with caution unless it can be clearly illustrated that the analysis is founded on the cost of each individual component by the property being valued. Three of Mr. Dineen's comparisons - 5, 6 and 7 were prepared "on a contractor's basis or a modified version thereof" and the valuations so determined were based on the overall cost without reference to the cost of each individual component of the properties concerned. Having regard to our earlier comments in this regard

we have come to a conclusion that Mr. Dineen's evidence in relation to his comparisons must be treated with due caution.

12. All in all the comparison evidence is confusing and indeed such is the variation in sq. metre rates, some of which are derived from valuations prepared on "the contractors basis or modified version thereof," that it is hard to discern just what is "the tone of the list" for valuing manufacturing buildings in pharmaceutical plants and biotechnology facilities. Whilst some spread of rates per sq. metre is to be expected given the nature of the industry it is nonetheless difficult to understand how they can vary from €91.50 per sq. meter to €215 per sq. metre.
13. The manufacturing building at the Centocor facility is somewhat unique when compared to any other building cited as being comparable by virtue of the floor to ceiling height of 9 metres at each of the production levels. We are also of the opinion that the building has been constructed to unusually high standards of specification, fit-out and internal finishes and that the production floors are sub-divided to a greater extent than in other buildings. There are important factors to be taken into account when arriving at an estimate of the net annual value of the property concerned in accordance with the relevant statutory provisions of the 2001 Act. Having regard to our comments at paragraph 12 above, the Tribunal has come to the conclusion that the manufacturing building at the property concerned should be valued at a higher rate per sq. metre than any of Mr. McMillan's comparisons, and the rate per sq. metre adopted by the Tribunal fairly reflects the enhanced specifications and the level and quality of internal fit-out.

Determination

Having regard to the above the Tribunal determines the valuation of the property concerned to be as follows:

<u>2007 revision</u>

Rateable Valuation - €6,230 x 200 = Net Annual Value	€1,246,000

<u>2008 Revision</u>

Production Area (2nd Floor)	6,901 sq. metres @ €150 per sq. metre	= €1,035,150
Plant Room/Stores –	3,094 sq. metres @ €75 per sq. metre	= €232,050
Access Building (2 floor)	450 sq. metres @ €50 per sq. metre	= €22,500
Spine Corridor (First Floor)	450 sq. metres @ €30 per sq. metre	= €13,500

Retention Pond (Agreed)	= €10,000
Horse Power (Agreed)	= €12,697
Piping (Agreed)	= €10,600
Tanks (5)	= € 5,000
Total	€2,587,497
NAV Say	€2,580,000
RV @ 0.5%	= €12,900

And the Tribunal so determines.