

Appeal No. VA88/0/182

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

Shannonside Milk Products Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot 39AC.40AC,41Ac, Lung, Ballaghaderreen, Co. Roscommon

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 20TH DAY OF NOVEMBER, 1989

By notice of appeal dated the 24th day of August 1988, the appellants appealed against the determination of the Commissioner of Valuation fixing the rateable valuation of the above described hereditaments at £1,210.

The hereditaments in question consist of a co-operative milk processing factory engaged in the production of a variety of milk products comprising offices, workshop, dryer, milk powder store, packaging, separator building, laboratory, wash bay, loading bay, boiler house, pallet store, milling, fuel tanks, water tanks, skimmed milk silos, vegetable fat tanks and milk tanks.

In his written submission dated 14 December, 1988 Mr Patrick F. Berkery, a valuer with 12 years experience in the Valuation Office, outlined the valuation history of the premises as follows:-

The factory was first valued in 1974 when the valuation was fixed at R.V. £950. On appeal to the Circuit Court, the R.V. was reduced to £600. The Circuit Court Judge in 1974 did not give a breakdown of how he arrived at this figure.

The valuation was next revised in 1979 when the valuation was increased to £1,000. No change was made at 1979 1st appeal stage.

In the 1983 revision the valuation was increased to £1,400. At 1983 1st appeal the quantum was agreed at R.V. £1,150 with appellants reserving the right to contest the rateability of tanks, horsepower and coal hoppers. The premises was again listed in 1987 to revise addition to factory. The valuation was increased to R.V. £1,210. The occupiers felt aggrieved by this decision and appealed against it. Mr Berkery was appointed by the Commissioner to investigate the grounds of appeal and report back. The Commissioner having considered his report made no change.

In a written submission dated the 9th January, 1989 Mr Patrick J. Nerney, Rateable Valuation Consultant, Valuer & Auctioneer of 13 Mountdown Road, Dublin 2 stated that the basis of his submissions at first appeal stage was that the tanks valued at £215, electric motor at £88 and coal hoppers at £12 should be struck out or reduced. He broke the various tank items down as follows, namely:-

- | | | |
|----|---------------------|-------------------------------|
| 1. | Milk tanks | 526,000 gls @ 15p/1,000 = £79 |
| 2. | Veg oil & fat tanks | 50,000 " @ 15p/ " = 8 |

3.	Whey tank (Former oil tank)	100,000 "	@ 15p/ "	=	15
4.	Acid tank	15,000 "	@ 15p/ "	=	2
5.	Water tanks	450,000 "	@ 15p/ "	=	68
6.	Oil tanks	275,000 "	@ 15p/ "	=	<u>41</u>
					£213
					Say <u>£215</u>

Mr Nerney attached a map to his submission which identifies the various tanks by number, copy of this map is annexed hereto at Appendix "A".

Mr Jeremiah Sullivan, Chief Staff Valuer, Valuation Office, wrote to Mr Nerney on the 21st December, 1988 and informed him that the respondent had decided to follow the judgment of the Valuation Tribunal handed down on the 6th December, 1988, following the hearing of the Mitchelstown Creameries Appeals (Appeal nos 88/94 to 88/99) and requested a meeting so that the issues in dispute in this appeal could be reduced to a minimum prior to the oral hearing.

On this basis the Commissioner conceded that the milk tanks and the vegetable oil and fat tanks (referred to at 1 and 2 above) were not rateable.

Further written submissions were furnished by each side and the same are annexed hereto at Appendix "B".

At the oral hearing which took place in Galway on the 11th January, 1989 Mr Felix McEnroe, Barrister at Law, instructed by Ms Caroline Simons of Messrs Matheson Ormsby & Prentice, Solicitors and Mr John Doyle, Engineer represented the appellants and the respondent was represented by Mr Berkery.

Having considered all of the evidence the Tribunal sets out hereunder the items which it understands to be under dispute and its decisions of the rateability thereof.

1. Tanks Nos. 1 and 30

These tanks contain water taken from the river Lung. The water is pumped from the river. There are two pumps outside the tank which boosts the water pressure and distribute it to various points of use. It was submitted that the pumping system filters the water being sent to the tanks and thereby changes the nature of the water. The Tribunal, however, finds that no change is induced in the water and that the actual storage element is clearly rateable.

2. Tanks 2 and 3

It is common case that these two tanks are condensed water tanks. There was no evidence to indicate that these tanks were used for any purpose other than containment or storage.

3. Tanks 4 and 27

Tank 4 contains 50,000 gallons of heavy fuel oil and tank 27 contains 75,000 gallons thereof. The only process that takes place in these tanks is for the purpose of the preservation of the oil at a constant temperature so that its viscosity can be maintained. Although the oil is pumped, heated and filtered no essential change takes place and these tanks are, therefore, for the purpose of containment or storage.

4. Tank 24

It is common case that this tank contains hydrochloric acid (HCL) used in the process of casein production. It is further common case that the entire production process would stop if this acid were removed. Again, no change is induced in the substance in this tank, therefore, it must be held to be primarily for the purpose of containment or storage.

5. Tank 25

This tank contains 25,000 gallons of treated water which is part of the chemical treatment plant. Again, it is an essential part of the production process. No change is induced in the water and it must be held to be primarily for the purpose of containment or storage.

6. Tank 26

It seems to be common case that this is an end product tank, the primary function of which is storage. In the North Kerry Milk Products Ltd. appeal (Appeal No. 88/205) tanks (21 and 22) were held to be rateable.

7. Tank 28

This is a disused oil tank and we understand that allowance has been made for this by the respondent.

8. Tank 29

This is a 150,000 gallon tank which contains town water and as in the case of tank number 25 it is used primarily for the purpose of containment or storage.

9. Motive Power

The Tribunal accepts the Commissioner's contention that motive power is rateable under section 7 of the Rateable Property (Ireland) Amendment Act, 1860 and also under section 7(1) of the Valuation Act, 1986.

10. Coal Hoppers or Silos

These are located over the coal fire boilers and used for the purpose of feeding the boilers. The same are primarily for the purpose of containment or storage of coal and, thus, are rateable.

It was submitted on behalf of the appellants that all of the foregoing items were an integral part of the manufacturing process that went on in the complex and that they should be considered on that basis. As in the North Kerry Milk Products Ltd. appeal referred to above the Tribunal considers that this would be carrying the doctrine of "integration" too far and that each of these items falls to be assessed on its own and is rateable.

The Tribunal has taken note of Mr Nerney's submission that the valuation of tanks, motors and hoppers or silos are excessive but no evidence has been produced that would justify it in reducing the rateable valuation.

The Tribunal, therefore, affirms the decision of the respondent, save in the case of the items conceded by the Commissioner and referred to on page 4 of this judgment, and accordingly fixes the rateable valuation at £1,124.