

Appeal No. VA88/0/188

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

**Trustees of the West Cork Art Society**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: West Cork Art Centre, North Street, Skibbereen, Co. Cork

**B E F O R E**

**Hugh J O'Flaherty**

**S.C. Chairman**

**Paul Butler**

**Barrister**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20TH DAY OF JANUARY, 1989**

By notice of appeal dated 23rd day of August, 1988, the appellants appealed against the respondents determination of the rateable valuation of the above mentioned premises.

The said appeal came before the Tribunal sitting at Cork on the 4th January 1989 when Miss Helen M Hoare, Solicitor of Wolfe & Co., Solicitors, Market Street, Skibbereen appeared for the appellants.

Mr Aindrias O Caoimh, Barrister at Law instructed by Patrick C. Twomey State Solicitor appeared for the respondent.

The submission for the appellant is that it is entitled to be distinguished as exempt from rates by virtue of the provisions of section 2 of the Valuation (Ireland) Amendment Act, 1854.

Section 2 aforesaid as amended provides inter alia that the Commissioner of Valuation shall distinguish all hereditaments or tenements used for the purposes of the Fine Arts as specified in the Act of 6 and 7 Victoria, Chapter 36 and that all such hereditaments or tenements or portions of same so distinguished, shall, so long as they shall continue to be used for the said purposes be exempt from rates.

The said Act of Victoria is the Scientific Societies Act, 1843.

Section 1 of the Act of 1843 provides inter alia that no person shall be assessed or rated or liable to be assessed or rated or liable to pay rates in respect of any land, houses or buildings or parts of houses or buildings belonging to any society instituted for purposes of the Fine Arts exclusively either as tenant or as owner and occupied by it for the carrying into effect its purposes provided that such society shall be supported wholly or in part by annual voluntary contributions, and shall not make any dividend, gift or bonus in money unto or between its members and provided also that such society shall obtain the Certificate mentioned in section 2 of that Act.

Section 2 of the said Act provides inter alia as follows:-

"Provides always, and be it enacted, That before any Society shall be entitled to the Benefit of this Act such Society shall cause Three Copies of all Laws, Rules, and Regulations for the Management thereof, signed by the President or other chief Officer and Three Members of the Council or Committee of Management, and countersigned by the Clerk or Secretary of such Society to be submitted... in Ireland to the Barister for the

Time being appointed to certify the Rules of Friendly Societies there for the purpose of ascertaining whether such Society is entitled to the Benefit of this Act; and such Barrister... shall give a Certificate on each of the said Copies that the Society so applying is entitled to the Benefit of this Act, or shall state in Writing the Grounds on which such Certificate is withheld; and one of such Copies, when certified by such Barrister..., shall be returned to the Society, another Copy shall be retained by such Barrister..., and the other of such Copies shall be transmitted by such Barrister..., to the Judge of Circuit Court where the Land or Building of such Society in respect of which such Exemption is claimed shall be situated,..."

It was further provided by the said Act of 1843 that when the certified copy of the rules of the society had been transmitted to the Circuit Court Judge that the Circuit Court Judge then present was required without motion to allow and confirm same.

Reference to the Barrister in section 2 of the Act of 1843 are references to the Registrar of Friendly Societies.

Evidence was given that an application had recently been made to the Registrar by the appellants for the certificate as provided for in the Act of 1843 but that due to pressure of work a certificate had not yet been issued.

Counsel for the Commissioner of Valuation has asked the Tribunal to assume for the purposes of the appeal herein that a certificate will issue to the appellant in due course on foot of its said application. However, it was pointed out by counsel for the Commissioner that such a certificate could, strictly speaking, only operate prospectively and could not operate retrospectively so as to invalidate the decision of the respondent at annual revision or on first appeal.

The Tribunal is prepared to accept the assurances of the appellant that such a certificate will issue in the near future and that when it issues that the appellant will be entitled to the full benefit of same. However, the Tribunal is satisfied that the certificate cannot affect the appeal now before it insofar as no such certificate was in being at the time of the determination by the

respondent of the appeal before him or at the date of annual revision. Nevertheless, the Tribunal is of the opinion that as a matter of equity that the local authority should take cognizance of the situation and in the circumstance of the certificates issuing the Tribunal trusts that the local authority will act with forbearance and treat the appellant as if the said certificate had been in existence at all relevant times.

For the purposes of the appeal before it, the Tribunal will simply disallow the appeal and will make no order as to costs having regard to the special circumstances in this case.