

Appeal No. VA90/2/025

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

**Trustees of Gort Comhaltas Club**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Lot No. 16Ab Cloonahaha, E.D. Gort, R.D. Gort, Co. Galway  
Exemption - Scientific Societies Act 1843

**B E F O R E**

**Henry Abbott**

**Barrister Chairman**

**Padraig Connellan**

**Solicitor**

**Mary Devins**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**DELIVERED ON THE 19TH DAY OF OCTOBER, 1990**

By notice of appeal dated day of 17th July, 1990, the appellant appealed against the determination of the Commissioner of Valuation in setting a rateable valuation of £30 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are as follows;-

- (a) All relevant factors and particularly the contents of Act 6 and 7 Vict. Cap. 36 have not been considered or if they have, they have been wrongfully disregarded.
- (b) The fact that the Registrar of Friendly Societies has certified that Comhaltas are entitled to the benefit of the said Act has been wrongfully disregarded.
- (c) The premises should not have a rateable valuation or alternatively if they have Comhaltas should be exempt from liability for rates.
- (d) Without prejudice to the foregoing the valuation of £30.00 is excessive having regard to all relevant circumstances

### **The Property**

The property, formally known as the Classic Ballroom, is located on the outskirts of Gort on the Ennis Road. The surrounding area comprises a mixture of residential and commercial properties.

It comprises a single storey hall erected in 1953 with extensions added in 1959. The main building is of concrete construction with a sunken maple floor and a raised stage area to one end. The accommodation comprises the hall, gents cloakroom and toilets, ladies cloakroom and toilets, bandroom, mineral and tea bar, ticket office and switchroom. The building has a gross external floor area of approximately 6624 sq.ft. The hall was acquired by Comhaltas Ceoltoiri on 8th January 1985.

### **Written Submissions**

A written submission was received from Mr. John Colfer A.R.I.C.S., an associated member of the Chartered Surveyors Society with eleven years experience in the field of property valuation, on behalf of the Commissioner of Valuation on the 28th September 1990. Mr. Colfer outlined the valuation history of the property. He said that the property was first valued as a dance hall in 1954 at £45. At 1st Appeal stage this valuation was unchanged. In 1961 the valuation increased to £50 following the building of an extension. The property was listed for Revision in 1987 as the new owners, Comhaltas Ceoltoiri, claimed exemption from rates under the provisions of Vict. Cap. 36. The Commissioner refused to grant exemption at Revision and First Appeal stages. In 1989 the property was listed for revision and a new workshop to the rear of the hall was valued under Lot 16Ae Cloonahaha (Tribunal Appeal VA/90/2/26). The fact that the hall was not granted exemption from rates was again appealed and though the valuation was reduced from £50 to £30 the Commissioner did not grant exemption.

Mr. Colfer then outlined the valuation method by which the rateable valuation was assessed as follows:-

The rateable valuation of £30 was assessed at .63% of the Nett Annual Value (N.A.V.) of the property which was determined having regard to the sale price of the property in January 1990 and the valuation of similar halls.

### **Valuation**

A) Estimated Capital Value as at November 1988 = £30,000

Yield 15% N.A.V. = £ 4,500 p.a.

@ .63% = £ 28.35

Valuation Say £30

B) Gross external area: 6624 sq ft @ 70p psf = £4,636

@ .63% = £29.21

Valuation Say £30.00

C) Gross external area: 615 sq mt @ 5p = £30.75

Valuation Say £30.00

Mr. Colfer attached four comparisons which are appended to this Judgment at Appendix A. A written submission was received from Mr. Justine Sadleir, Solicitor, Crow Street, Gort, Co. Galway on behalf of the appellants on the 11th October, 1990 in which Mr. Sadleir said that evidence would be given on the following lines:-

- (1) The Gort Comhaltas Club is the name used by the Branch of Comhaltas Ceoltoiri Eireann operating in the Gort area. It is within the National Organisation and governed by the Bunreacht or Constitution of the National Organisation.
- (2) The Bunreacht of Comhaltas has been filed with the Registrar of Friendly Societies who on 4th October, 1979 certified that Comhaltas Ceoltoiri Eireann was entitled to the benefit of Act 6 & 7 Vict., Cap. 36 entitled "an Act to exempt from County Borough,

Parochial and other local rates, land and buildings occupied by scientific or literary Societies".

- (3) From the date of the issue of the said Certificate until the matters now in question arose payment of rates was not sought from Comhaltas in respect of any of its premises.
- (4) In 1984 the premises formerly known as the Classic Ballroom was for sale and it was decided that attempts would be made to buy it for the use of Comhaltas and particularly the Branch operating in and about Gort. The purchase was negotiated and duly completed on the 8th day of January, 1985.
- (5) The main part of the premises being the part now having a poor law valuation of £30.00 was used and occupied by and in pursuance of the objects of Comhaltas. Use by certain other parties was permitted from time to time and in particular by a local organisation which was raising funds for the construction of its own centre. The portion at the rear on which there is now a poor law valuation of £19.00 was let from time to time for various relatively short periods.
- (6) On the 19th day of December, 1985 a Certificate, pursuant to the Registration of Clubs (Ireland) Act 1904 as amended, was issued by the Circuit Court at Galway in respect of the premises. This allowed for the provision of intoxicating liquor to members and their guests in accordance with the terms of the various acts.
- (7) It transpired that the facility afforded by the premises was surplus to the needs of Comhaltas in the Gort Area. The Club Certificate was allowed to expire in September, 1989 and thereafter the entire premises was put up for sale. The owner of the adjoining premises purchased it and the sale was completed on 20th August, 1990.
- (8) The appellants are considerably disadvantaged in the presentation of their case because they do not have access to any of the information or reports which must have been before the Commissioner of Valuation prompting the various alterations in poor law valuation and prompting the apparent withholding in respect of this premises of the benefit of Act 6 & 7 Vict. Cap. 36.

Mr. Sadleir contended that the main portion of the premises should not be rated at all or alternatively that if it is rated no rates should be payable in respect of the period of occupation by Comhaltas.

### **Oral Hearing**

The oral hearing took place at the Council Chambers of Galway County Council at Galway on the 17th day of October 1990 when Mr. John O'Donnell, B.L., (instructed by Justine Sadleir, Solicitor) appeared for the appellants and Mr. Conor Fahy, B.L. instructed by the Chief State Solicitor appeared for the respondent. The appellants submitted that they were entitled to be distinguished as exempt from rates by virtue of provisions of Section 2 of the Valuation (Ireland) Amendment Act 1854.

The said Act of 1854, Section 2 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 & 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 Act of Victoria referred to is the Scientific Societies Act of 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 provided also that such a 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 Barrister 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 these Societies so applying is entitled to the Benefit of this Act, or shall state in Writing the Grounds on which such a 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 the Circuit Court where the Land or Building of such Society in respect of which such Exemption is claimed shall be situated, ...".

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

On behalf of the respondents it was argued that the appellants were not so exempt by reason of the fact that they were not a Friendly Society and secondly that they used the subject premises occasionally for functions such as bingo and earned money for the premises. The appellants conceded that the local branch of Comhaltas Ceoltoiri Eireann in Gort had a bank debt in respect of the premises which required them to raise funds by having bingo sessions and such like.

The Gort Comhaltas club, the appellants herein, are a club affiliated to Comhaltas Ceoltoiri Eireann and have rules which are subject to the Constitution or Bunreacht of Comhaltas Ceoltoiri Eireann which is the parent body. The rules of Gort Comhaltas club and the parent body Comhaltas Ceoltoiri Eireann are those of a club or association which is unincorporated and the Tribunal is satisfied that neither the Gort Comhaltas nor the Comhaltas Ceoltoiri Eireann at national level is a Friendly Society. The Tribunal finds that an amendment of the Bunreacht of the parent body which the appellants are subject prohibits profit making and the distribution of income or property to any member by way of dividend bonus or otherwise by way of profit. The Constitution also provides in the amendment that Comhaltas shall be supported by annual voluntary contributions.

The effectiveness of the certificate issued pursuant to the 1843 Act has been considered by the Tribunal in the Trustees of West Cork Arts Society, appellants and Commissioner of Valuation, respondent Appeal No VA/88/188.

The Tribunal finds that the Bunreacht of Comhaltas Ceoltoiri Eireann complies with the requirements of the Act of 1843 in all respects. The Tribunal also finds that it does not have to decide whether it is a fundamental requirement of the effectiveness of the certificate that Comhaltas be a Friendly Society, as the issue of the certificate by the Registrar of Friendly Societies must be taken on face value. In the absence of any decision of court quashing same the Tribunal must find that the Registrar in issuing such a certificate was satisfied that the Bunreacht of Comhaltas was that of a society to which the 1843 Act applied and it would be invidious of the Tribunal to pursue the objection of the respondent by seeking to go behind such certificate. The fundraising activities of the appellant in relation to bingo sessions and the like are found by the Tribunal not to be inconsistent either with the Bunreacht of Comhaltas or with the requirements of the 1843 Act. The Tribunal would not, however, be so disposed to find for appellants who are not bona fide and who are manifestly seeking to abuse the process which was

set up by the 1843 Act and later legislation to protect the Arts. The Tribunal notes that it is common case between the parties herein and finds that Comhaltas at national level and as represented by the appellants, in relation to the subject premises are a bona fide body striving to promote the Arts in the traditional sphere.

The Tribunal notes that it was further provided by the 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 the same and that it was a requirement of the effectiveness of the certificate that it would be confirmed in the Circuit Court where the land or building in respect of which exemption is claimed was situated. The Tribunal offers no view as to whether this requirement still applies in relation to proceedings which are now dealt with on appeal by the Tribunal or whether the Tribunal ought to have any jurisdiction to confirm the certificate. The Tribunal finds that the matter of transmission of the certificate to the appropriate Circuit Court Judge or to the Tribunal whichever procedure is now appropriate is a mere formal procedure, which may retrospectively ratify the effectiveness of the certificate in respect of any property, and accordingly finds for the appellants and upholds the appeal with the recommendation that the appellant and respondent ensure up to date compliance with the transmission of the certificate herein dated the 4th day of October, 1979 to the appropriate Circuit Court Judge or the Tribunal (whichever is appropriate).