

Appeal No. VA93/2/035

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

**P.W.A. International Limited**

**and**

**APPELLANT**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory and Land at Map Ref: 36A.39, Townland of Brownsbarn, E.D. Newcastle, R.D.  
Dublin - Belgard, Co. Dublin  
Quantum

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Paul Butler**

**S.C.**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 5TH DAY OF JANUARY, 1994**

By Notice of Appeal dated the 21st day of May, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £1,550 on the above described hereditament.

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

- "(i) The said assessment is grossly excessive and inequitable relative to assessments on other industrial properties in the administrative area of Dublin County Council and in particular relative to the assessments on the following properties:-
- (a) the adjoining Airmotive Ireland Ltd facility at Brownsbarn which carries out a related and basically similar function,
  - (b) various industrial facilities at Clondalkin, Tallaght, Kilcock etc, including *inter alia* the Printech facility at Clondalkin and the Nestle and IDA facilities at Tallaght.
- (ii) The assessment is bad in law in that it does not comply with the provisions of the Valuation Acts 1852 - 1988 and in particular with the provisions of Section 5 of the Valuation Act 1986.

- (iii) Part of the assessed valuation relates to certain facilities in the premises which are either:
  - (a) items of machinery forming an integral part of the industrial process undertaken in the premises (and treated as such by both the Revenue Authorities and the IDA) and not used for the production of motor power or
  - (b) if deemed to be the category of plant inserted after Section 15 of the Act of 1860 by Section 8 of the Valuation Act 1986 these facilities are not fixed as envisaged by the said Section.

In the circumstances these items are not rateable under the Valuation Acts.

- (iv) If deemed to be an item of rateable plant (which is denied) no allowances have been made for those parts of the plant which move or are moved mechanically or electrically nor for the element of double rating which arises, i.e. the rating of that section of the premises in which the said plant is housed, the rating of the plant itself and the motive power forming part of and attached to the said plant."

### **The Property**

The property is situated on the Naas Road at Brownsbarn on the Dublin bound carriageway and at the junction with the road to Saggart. The property which was built in 1990 at a cost of £4.2 million of which £1.7 million accounted for plant/equipment. The accommodation consists of a two storey office to the front with a total floor area of 11,676 square feet and a production area of 54,702 square feet. All main services are connected to the property.

Precis of evidence where delivered by both parties hereto.

### **Oral Hearing**

The oral hearing took place in Dublin on the 22nd day of December, 1993. Mr. William A. Tuite, FRICS of Messrs. Jones Lang Wootton appeared for the appellant and Mr. Colman Forkin a Chartered Valuation Surveyor with 12 years experience in the Valuation Office appeared for the respondent.

The parties initially debated the quantum issue independently of the rateability of certain items of machinery which were claimed to be in the furnace/ovens category.

It emerged that while comparison No. 1 of Airmotive (Ireland) Limited related to a much older building, it did have a certain comparability by reason of the proximity thereof to the subject. Mr. Tuite stated that while he had used the other comparisons listed by him in his precis from which to formulate his estimate of the N.A.V. of the subject, that he would be relying on Airmotive as well, now that the valuation thereof had been clarified. The Tribunal heard from Mr. Forkin in relation to the disadvantages of Airmotive. These centred mainly around the older, slightly obsolete nature thereof. Mr. Tuite argued that the comparisons offered by the Respondent were in superior industrial estates. In particular, Mr. Tuite argued that the Broomhill Industrial Estate in which Spicers Limited was situated was a much better industrial estate, and was greatly favoured by institutional investors. He also argued that the comparisons offered by Mr. Forkin were technically much superior than the subject and that in some cases office accommodation had third generation office type space suitable for adaptable computer use.

### **Machinery**

The Tribunal has had the benefit of the evidence of Mr. Hattie explaining the outline of the premises and also his affirmation of the detailed technical description of the processes carried out on the floor of the subject. These involve the repair or re-manufacturing of air craft engines and in particular the combustion chambers thereof. The Tribunal also has had the benefit of photographs of the various items of plant, which the respondents claim are either ovens or furnaces.

### **Findings**

Having regard to the evidence of the appellants and in particular the illustration of the particular items of plant in the photographs annexed hereto, and the fact that the items of plant were substantially assembled off site and may be removed from the site without causing damage to the existing premises or structure thereof, the Tribunal has taken the view that although the items of plant may operate as furnaces/ovens or kilns in particular instances of operation, they are not fixed and thus are not comprised in the categories of plant referred to in Ref No. 2 of the Schedule to Section 15 of the Rateable Property (IR) Amendment Act, 1860, inserted by Section 8 of the Valuation Act, 1986.

The Tribunal is further of the view that the business carried on in the subject premises is that of manufacturing albeit re-manufacturing of, or repairing of engines which have fallen into disrepair. Section 7 of the 1860 Act, as substituted by Section 7 of the Valuation Act, 1986 provides as follows:-

- (1)(a) In making the valuation of any mill or manufactory, or building erected or used for any such purpose, the Commissioner of Valuation shall in each case value the water or other motive power thereof, but shall not take into account the value of any machinery therein, save only such as shall be erected and used for the production of motive power.

The Tribunal is reluctant however to find that all these items in dispute are in fact machinery unless they are machines on a stand alone basis. This is because the Tribunal considers that the evidence showed that the processes being carried on as between one item of equipment and the other was far from being continuous or integrated but were in each case being carried on in an individualized basis. As these items are not caught in the category of Ref. No. 2 of the Schedule and have manifested the characteristics of machines in all their complexity, the Tribunal finds that they are machinery on a stand alone basis and hence not rateable.

### **Quantum**

In view of the foregoing and having regard to the evidence in relation to the comparisons offered the premises may be valued on the agreed areas as follows:-

11,676 square feet at £3.75 p.s.f.	=	£ 43,785
54,702 square feet at £2.50 p.s.f.	=	£136,755
1,970 square feet at £2.25 p.s.f.	=	£ 4,433
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Total N.A.V.	=	£184,973 X 0.63% = £1,165

Add for Horsepower on agreed basis £53.00

Add for Car park uncontested £10.00

Total R.V. £1,165 + £53.00 + £10.00 = £1,228.00

The Tribunal accordingly determines the rateable valuation of the subject premises at a figure of £1,228.00 together with existing valuation on land at £20.70 making a total of £1,248.70.

