Appeal No. VA97/6/036

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Irish Ispat Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Office, Workshop & Land at Lot No. "C", Haulbowline Island, ED: Cobh Rural, RD: Cork Upper. Co. Cork

B E F O R E

Con Guiney - Barrister at Law	**Deputy Chairman**
Barry Smyth - FRICS.FSCS	**Member**
George McDonnell - F.C.A.	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF MARCH, 2000

By Notice of Appeal dated the 17th day of October 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £6,975 on the above described hereditament.

The Grounds of Appeal as set out in the Notice of Appeal are that "the valuation is excessive, inequitable and bad in law. In addition items of plant included in the above valuation we claim are not rateable under current legislation".

The recent valuation history is that Lot C in 1982 was valued at £9,500 but following appeal this figure was reduced to £7,000.

A revision request was lodged in January 1997 on the basis that the foregoing figure was excessive. No change was made on revision or appeal.

A written submission prepared by Mr. Terence Dineen B.Agr.Sc. on behalf of the respondent was received by the Tribunal on 29th January 1999. Mr. Dineen is a District Valuer with twenty-four years experience in the Valuation Office.

The written submission set out the rateable elements as follows;

1.	Buildings and yards		£4,050
2.	Furnaces		£1,500
3.	Docks		£ 500
4.	Horse Power	}	
5.	Tanks	}agreed at	£ 930
6.	Rail Tracks	}	
		Total	£6,980
		Say	**£6,975 R.V.**

The written submission then went on to describe the underlying basis for the valuation of these rateable elements.

The buildings/yards valuation was arrived at as follows:

Ref No.	Description	M^2	Rate (£)	£	£/Sq.ft.
1.	Offices	336	32.3	10,852	3
2.	Repair sheds, stores (5m eaves)	4,242	10.7	45,389	1
3.	Rolling mill, warehouse (10-12 m eaves)	23,542	21.5	506,153	2
4.	Furnace house area (20-25 m eaves)	7,280	32.3	235,154	3
5.	Bunker yards	2,765	2.7	7,465	0.25
6.	Billet yard	1,781	2.7	4,808	0.25
	N.A.V.			809,821	

R.V. @ 0.5% = £4,049 Say £4,050

The written submission then went on to deal with the valuation of the three furnaces at the subject namely, the electric arc furnace, the ladle furnace and the reheat furnace. The electric arc furnace [EAF] and the reheat furnace were installed in 1980 and 1981 respectively. The ladle furnace was installed in 1992/3.

The written submission set the basis for the rateable valuation of the furnaces as follows:

EAF & Reheat

What is the November 1988 effective capital value of these?

The first day costs were £3.91m.

The 1992/3 modernisation of the EAF cost £0.8m.

Even though this involved the addition of a new element eccentric bottom tapping (EBT) – propose to exclude it as being maintenance and renewal.

As inflation was high between 1980 (CPI 276) and 1988 (CPI 518) (+87%) and much lower between 1988 (CPI 518) and 1997 (CPI 650) (+25%) propose to take the November 1988 value as being equal to the original costs.

Propose then to make an allowance for obsolescence and physical deterioration.

1988 values	£3.91m
allow for obsolescence and deterioration 25%	£0.98m
Final 1988 value	£2.93m

Ladle	
1992/3 cost	£2.31m
backdate to 1988 say 10%	.23m
	£2.08m
allow for physical deterioration 10%	£ .20m
Final 1988 value	£1.88m

Total for furnaces £2.93m + £1.88m = £4.81m E.C.V.

N.A.V. £4.81 m.x 6.5%	=	£312,650
R.V. @ 0.5%	=	£1,563.00
	Say =	**£1,500**

The 6.5% decapitalisation figure was used for furnaces in
Waterford Glass, Kilbarry – with Lisneys R.V. £705.00
Waterford Glass, Dungarvan – with Lisneys R.V. £390.00
Irish Glass Bottle, Ringsend with Brian Bagnall & Co. R.V. £820

The written submission then went on to describe the docks at the subject hereditament.

There are three docks. The agreed working lengths of the docks are:

Scrap unloading dock – 95 linear metres
Finished product loading dock – 95 linear metres
Spencer jetty – 134 linear metres

The Spencer jetty is a lay-by berth used generally for storage of refractory materials. It is 20 metres wide.

The scrap unloading dock has 20 foot draft at low tide and can take 3,000 tonne vessels.

The other dock was formerly a dry dock with sloped sides. Its draft at low tide is 16 ft – 17 ft and it also takes 3,000 tonne vessels.

The written submission stressed the value of the docks to the subject property given it is sited on an island. In particular the written submission drew attention to the value of the docks in reducing transport costs.

The written submission set out the basis for the rateable valuation of the docks as follows;

In arriving at the N.A.V. it was proposed to concentrate on the reduced transport costs.

The closest alternative is Ringaskiddy deep-water berth. If goods came in and went out from there suggest the following transport costs would be incurred:

Imports	Scrap 150,000 tonnes @ £1.50/tonne =		225,000
	(some domestic scrap also shipped in)		
Exports	90% of 350,000 tons		
	Say 300,000 tons @ £4.00/tonne	=	1,200,000
	Total	=	1,425,000

In the light of these figures witness considers the £100,000 N.A.V. proposed for November 1988 as reasonable.

R.V. = £500

Finally the written submission contained four comparisons to support the valuation put on the buildings and yards at the subject. Details of these comparisons are annexed to this judgment at **Appendix A.**

A written submission prepared by Mr. Brian Bagnall, A.R.I.C.S., A.S.C.S., M.I.A.V.I. on behalf of the appellant was received by the Tribunal on 27th day of January 1999. Mr. Bagnall is a valuer with 20 years experience.

The written submission set out the basis of Mr. Bagnall's rateable valuation of the buildings and yards as follows;

Buildings

Although the eaves height of the building varies the standard of construction is very similar and we have decided therefore not to differentiate between different eaves height. In addition the bulk of these buildings are all interconnected and for that reason we feel that it would be inappropriate to try and deal with them separately.

Valuation

Agreed areas:	35,400m^2 @ £6.00 per m^2	=	£212,400

Yards

Agreed areas:	4,546m^2 @ £1.60 per m^2	=	£ 7,264
			£219,664
	Say	=	£220,000
	R.V. @ 0.5%	=	£ 1,100

The basis for the valuation of the docks was set out in the written submission as follows;

Main Docking area	190m @ £8,200 per linear metre	=	£1,558,000
	Depreciate by 50%	=	£ 779,000
	Rental Value @ 4.8%	=	£ 37,392
Secondary Docking Area	134m @ £8,200 per linear metre	=	£1,098,800
	Depreciate to 10%	=	£ 109,880
	Rental Value @ 4.8%	=	£ 5,274
	Total Rental Value of Main & Secondary Jetties	=	£ 42,666
	Rateable Valuation @ 0.5%	=	£ 213
	Say	**=**	**£215**

Note: £8,200 represents the cost of constructing a linear metre of pier/dock as of November 1988 as per various agreements with the Valuation Office.

The written submission set out Mr. Bagnall's estimate of the rateable valuation of the furnaces as follows;

Furnace No.1 – Electric Arc Furnace

Current Capital Value	£1,000,000
1988 Capital Value	£ 806,000
Rental Value	£ 38,688
R.V.	**£200**

Furnace No. 2 – Ladle

Current Capital Value	£1,500,000
1988 Capital Value	£1,209,700
Rental Value	£ 58,066
R.V.	**£300**

Furnace No. 3 – Reheat Furnace

Current Capital Value	£ 250,000
1988 Capital Value	£ 201,613
Rental Value	£ 9,677
R.V.	**£50**

Total R.V. of Furnaces **£550**

In arriving at these valuations Mr. Bagnall stated that the "current book value" had been supplied to him by Irish Ispat Limited as of August 1996. Also the inflation adjustment factor from November 1988 to May 1997 was 24% based on the Consumer Price Index.

In summary therefore the written submission contended that a fair rateable valuation for the subject hereditament would be as follows;

Agreed horsepower, railway lines and tanks	£ 930
Buildings/yards	£1,100
Docks	£ 215
Furnaces	£ 550
Total R.V.	£2,795

The written submission contained four comparisons to support the appellant's buildings/yards valuation. The written submission also contained four comparisons to support the appellant's valuation of the docks. Details of these eight comparisons are annexed to this judgment at Appendix B.

The written submission stated that the use of the 4.8% rental value used in valuing the furnaces was derived from the decision in Henkel Ireland Limited –v- Commissioner of Valuation – VA93/3/004. Here the Tribunal had accepted that the appropriate fraction for valuing plant on a contractor's method was 4.8% of capital cost.

Finally Mr. Bagnall's written submission contained three appendices. Appendix One contained twelve photographs and a location map of the subject hereditament. Appendix Two contained a description of the steal making process. Appendix Three contained a statement of the evidence to be given by Mr. Michael Saville.

The Tribunal also received on the 29th day of January 1999 an Irish Ispat Limited Works layout map on a scale of 1:500. This map was provided by the respondent.

The oral hearing took place at the Cork County Council Chamber in Cork on the 10th day of February 1999. Mr. Owen Hickey B.L. represented the appellant and Mr. Willis Walshe B.L. appeared on behalf of the respondent.

At the opening of the hearing Mr. Hickey confirmed that all the areas in the subject hereditament had been agreed by the parties.

Mr. Hickey also made a preliminary legal point on the rateability issue of the furnaces. He said he had two legal arguments. In the first instance the three furnaces were machinery or in the alternative they were non-rateable plant. He contended that the words "bad in law" contained in the Notice of Appeal embraced both grounds. There was no objection by the respondent to this preliminary point made by Mr. Hickey.

Mr. Brian Bagnall took the oath and adopted his written submission as his evidence to the Tribunal. He said the subject property was a large and interconnected entity with an agreed area of 35,400 metres^2. He had valued the subject as one entity. The buildings were the worst industrial buildings he had inspected. Combined with the large size of the buildings there was restricted circulation areas. In arriving at a value of £6 per m^2 he had taken these facts into account.

Mr. Bagnall said his main comparison for the buildings at the subject was the Verolme property. This is a similar industrial site located across the estuary. The buildings at Verolme are superior and there are better circulation areas there. Mr. Bagnall stated that some buildings at the subject were ninety years old.

As to the valuation of the docks at the subject Mr. Bagnall said he had based this on dock valuations he had agreed with the respondent. These agreements had been on the basis of £8,200 per linear metre for construction costs. Mr. Bagnall referred to the secondary docking area and he said this was rarely used and he had depreciated it to 10%. He had followed here a similar agreement with the Valuation Office in connection with an infrequently used jetty at Dublin Port and Docks.

In further sworn testimony Mr. Bagnall dealt with the valuation of the three furnaces.

The re-heat furnaces were operating at full capacity. The plant, however, was operating at 30% below an efficient level due to European Union restrictions. These controls will be lifted in a years time. The output of the plant will have to be increased then. In that context the re-heat

furnace will be a constraint on production and it will have to go. This prospect influenced his valuation of the furnace.

The main electric arc furnace was installed twenty years ago. It was obsolete and inefficient.

The ladle furnace was the most modern furnace on the site being installed in 1992/1993. Therefore this had the highest value.

Mr. Bagnall gave further evidence about his comparisons.

The Ispat site at Ringaskiddy was 10% of the subject hereditament in area. The R.V. had been reduced from £400 to £320. This analyses at £16.40 p.s.m. Mr. Bagnall said the discount he used on the subject reflects the fact it was ten times the size of this comparison and the buildings were superior in the comparison.

The Klopman plant in Tralee is comparable in size to the subject. The factory there was a superior building with double skin roof and the offices were modern. There was a value of £12.38 p.s.f. placed in the main factory building and £20.90 p.s.f. on the offices.

Mr. Bagnall then referred to the valuation of the yard space at the subject. He referred to two yards at Greenore port where the valuation had been agreed with the Valuation Office. These agreements were the basis he used in valuing the yards at the subject.

Mr. Bagnall then dealt with his dock comparisons.

Atlas Oil, Waterford was a small jetty in Waterford. The valuation had been agreed with the valuation office at a construction cost of £8,200 per linear metre.

At the Dublin Port and Docks (East Wall Road) a valuation based on £8,200 per linear metre for construction costs was agreed with the Valuation Office. Also a depreciation factor of 50% had been agreed.

The jetty at Alexandra Road, Dublin was a disused quay. A 90% discount had been allowed and only 10% of the quay had been valued.

The valuation at the Greenore docks had been a global one, therefore no linear analysis was available for this. However, the yards, weighbridge and ancillaries were valued at £115 leaving a rateable valuation of £420 on the main Dundalk port.

Mr. Bagnall then dealt with his valuation of the furnaces. He has used the 4.8% of capital cost decided in the Henkel case. The capital cost has to reflect the return on money available. This is a time of reducing interest rates and this is a further factor in allowing for a lower return on capital costs. This case deals with a 1997 valuation when prevailing interest rates were 3%.

Mr. Bagnall then referred to the photographs in his written submission. These showed the poor quality of the buildings at the subject. Some of the buildings had been transported from Belgium in 1937. Other buildings dated from 1910.

Mr. Bagnall said his preferred comparison for buildings was Verolme. It had the same type of buildings as the subject with high eaves. Verolme had clear spans internally while the subject had pillars.

Mr. Bagnall then commented on the respondent's building comparisons. Irish Glass Bottle was not an appropriate comparison. It was situated in the heart of the Dublin docks and surrounded by roads. In Mr. Bagnall's opinion it could be easily sub-divided and sub-let.

Marina Joinery had been built around 1974. It was 20% the size of Irish Ispat. The building has a double skin roof and a sprinkler system has been installed. Marina Joinery did not compare to the subject in size or quality.

Munster Joinery was a new building constructed in 1995. The buildings vary from good to mediocre. Factory space at this comparison had been valued at £1 p.s.f. Mr. Bagnall said that this comparison supported his valuation of the buildings at the subject hereditament.

Mr. Bagnall said that the respondent's method of valuing docks based on transport costs was inaccurate. It was an exercise based on not having a jetty. Where the subject is located there are a number of docks some used by the Navy. This strengthens the argument for building a dock. Accordingly the cost of constructing a dock was the proper approach to arriving at a rateable valuation of the docks.

At the outset of his cross-examination of Mr. Bagnall, Mr. Willis Walshe said that the respondent wished to correct one item in Mr. Dineen's written submission at page eight. In the table of buildings valuations the rate p.s.f. for the repair yard was £1 p.s.f. not £3 p.s.f.

Under cross-examination by Mr. Walshe, Mr. Bagnall said he had used 50% depreciation in connection with his dock comparisons because docks erode under the water level over time. Older docks need higher maintenance and not many new docks are being built.

Mr. Michael Saville took the oath. He said he was the chief engineer at Irish Ispat Limited.

In his sworn testimony Mr. Saville described the workings of the electric arc furnace. This furnace melts scrap metal, which is the raw material for the production process at Irish Ispat. The molten metal is then poured into a ladle and taken to the ladle furnace.

The electric arc furnace has a number of components. The main furnace shell is of steel construction and about six metres in diameter. It has a refractory in the bottom to contain molten metal and slag. In the walls of the shell are water-cooled panels.

The main furnace shell sits on a heavy steel frame which is turn sits on two racks which themselves are fixed to foundations. The steel frame moves on these racks to tilt the furnace shell backwards and forwards.
To the side of the main furnace shell and immediately adjacent to it there is a large steel structure which supports the furnace roof and the electrodes.

The furnace roof can be moved hydraulically and vertically about a half metre. The electrodes can be moved independently of the roof vertically about 4 metres.

The whole structure including the steel frame, the electrodes and their mechanism for movement, and the roof of the furnace can be rotated sideways through an angle of about 60 degrees. This degree of movement is required to drop scrap from the top down into the furnace. The movement is effected hydraulically and during this operation the structure is supported on wheels moving on a semi-circular rail.

In further sworn testimony Mr. Saville continued to described the furnaces.

In front of the electric arc furnace is a car, which contains the ladle so that when the molten metal is being tapped out of the furnace the ladle in the car is driven under the electric arc furnace. The furnace tilts forward slightly and the molten metal comes out into the ladle underneath. When all the metal is out of the furnace it is brought back to a level position and the ladle and its car is moved away.

The main furnace shell is lifted out about every ten to fourteen days depending on the refractory life. Refractory is the brick material in the bottom of the shell, which contains the molten metal and the slag. This brick material is liable to attack from components in the slag and therefore has a finite life.

The shell, which weighs about 200 tons is moved by a crane onto a car and then moved to an adjoining service bay and repaired there. At the same time a second shell is used in the production process.

Mr. Saville said all parts of the electric arc furnace move electrically or mechanically except the two rockers. These are two large steel racks which sit on the top walls of the foundation.
Mr. Saville then described the ladle furnace. The ladle, which contains the molten metal from the arc furnace, is used to move the molten metal to the casting machine or to the ladle furnace.

The ladle furnace has no shell. The metal being contained in the ladle. The ladle furnace has a roof and the same electrode system as the electric arc furnace. This furnace does not swing to the side.

The ladle of molten metal in its car is brought to the ladle furnace by means of an overhead crane. The car then moves under the furnace roof. The roof then drops down on the ladle. There is a mechanism at the side of the ladle furnace, which allows the electrodes to come down through its roof. In addition there is a lance for blowing nitrogen into the ladle to keep the metal mixed and homogenous when the alloys are added.

Mr. Saville said the ladle furnace is made up of moving parts. The only fixed part is the floor the employees walk on.

In further testimony Mr. Saville said control of temperature is important at the ladle furnace. This control was necessary for the casting machine, which was the next stage in the process.

Mr. Saville then described the reheat furnace. This is gas fired. The process in the furnace is to heat the billets of steel, which come from the casting machine and thereby enable the billets to be further processed on the rolling mill. A billet is a piece of steel, 200 millimetres square approximately, and five metres long.

The billets are fed cold into the reheat furnace. They are pushed down through it and the temperature is brought up to 1,200 degrees by a series of burners mounted in the roof of the furnace.

The moving parts connected with the reheat furnace are the pushers outside. One of these operates hydraulically and pushes billets down through the furnace. Another pusher is located at the outlet of the furnace and is used to push hot billets out to the rolling room.

Finally Mr. Saville said that the arc furnace and the ladle furnace are removable from the premises. The reheat furnace was not removable, as it was a large inanimate mass of refractory material.

Under cross-examination by Mr. Walshe, Mr. Saville described the construction and installation of the furnaces.

The electric arc furnace was installed in 1981 and modified in 1993/1994. The installation of the furnace took about a year. An old building was demolished and a new building constructed. Foundations were laid and the furnace was built on those foundations. Part of the installation of the electric arc furnace involved the placing *in situ* of a 165 ton crane.

The ladle furnace was installed in 1993. It was constructed in three to four months and went into an existing building.

The reheat furnace was installed in 1981 over a period of about three months. The major part of the construction was the car and the tracks, which support it.

In further replies to Mr. Walshe, Mr. Saville said the function of the electric arc furnace is melting while the function of the ladle furnace is refining.

Mr. Saville agreed that the furnaces are an essential part of the steel making process.

In reply to a question by Mr. Walshe, Mr. Saville stated that the main components of the electric arc furnace and the ladle furnace could be removed in a matter of weeks using the overhead cranes. This removal could be effected in a process, which did not entail the removal of the buildings.

Finally Mr. Saville stated that 5% of the arc furnace is not moving and 10% of the ladle furnace is not moving.

Mr. Dineen took the oath and adopted his written submission as his evidence to the Tribunal. Mr. Dineen stated that the Ispat plant was efficient and cost effective and he quoted from publicity material produced by the company to support this statement.

Mr. Dineen referred to the buildings at the subject hereditament. He agreed they were not of superior construction but they were suitable for the production process carried on by Irish Ispat.

Again Mr. Dineen referred to the map of the plant and pointed to the location of the arc furnace and the ladle furnace adjacent to one another. Also there were 28 cranes on the site. Two large cranes of 100 tons and 165 tons were located in the furnace area. Mr. Dineen said the building and the equipment complimented one another.

In further sworn testimony, Mr. Dineen said the buildings vary in height from 3 metres to 25 metres. Most building blocks were higher than ten metres in the eaves. Mr. Dineen said he considers height to be an important factor and based on this he had divided the building into three categories. Mr. Dineen then referred to his analysis of the buildings, which is set out in tabular form on page three of this judgement. He commented that the repair sheds, which he had valued at £10.70 per square metre, were not different from the Irish Ispat on the mainland. This had been agreed two years ago with Mr. Bagnall at £16.50 per square metre.

Mr. Dineen referred to his comparisons. Irish Glass Bottle was a larger facility than the subject being 40,000 square metres. This devalued at £17.20 per square metre. A 1960's building covered more than half the site. The building had an effective height of more than 20 feet and a single skin asbestos roof like the subject. The floor of the building was covered by tarmac and there was movement on it due to the "made up" nature of the ground.

Marina Joinery was a Tribunal decision VA96/4/023. This factory at Little Island, Cork, had been constructed in 1974. It had 16 foot eaves height.
Mr. Dineen said Munster Joinery was to his knowledge the largest factory in Cork. It was located in a rural area about one mile from the Kerry border.

Mr. Dineen then dealt with his valuation of the furnaces. He outlined a number of general principles that he followed in making the valuation.

These were:

1. The rent the tenant may be expected to pay is more related to the efficiency of the plant than to the extent that the plant is physically life expired.
2. The determination of value is not historic cost but the current cost of a similar replacement and,
3. High maintenance costs do not affect letting value under the rating hypothesis. It is assumed under the hypothesis that the hereditament is maintained in the status in which it was acquired.

In dealing with the details of the valuation of the electric arc furnace and the reheat furnace, Mr. Dineen said he took their 1980 value as being equivalent to 1988 values. The 25% obsolescence factor was an arbitrary figure.

In arriving at a valuation for the docks, Mr. Dineen said he took into account the importance the company attributed to them. The onsite port facility afforded cost efficiency in importing and exporting materials from the subject hereditament. He approached the valuation by putting a price on transport costs. If goods had to be imported and exported through Ringaskiddy, they would have to be loaded on lorries, secured, transported by road, unloaded and stocked. The docks at the subject obviated all this.

Mr. Dineen said he did not agree with Mr. Bagnall's 50% depreciation in his docks valuation. There should be no depreciation, as the efficiency has remained the same. Mr. Dineen said that Mr. Bagnall had made no allowance for site value. In the contractor's method site value is taken into account. It is added to the cost of construction.

Mr. Dineen said that Mr. Bagnall had taken three factors into account in valuing the furnaces:

(a) Cost of installation

(b) Current book value and

(c) Their value to the manufacturing process.

Mr. Dineen said (b) was irrelevant and (c) was meaningless. Only item (a) was relevant.

With reference to the 4.8% used in valuing the furnaces by Mr. Bagnall, Mr. Dineen said that the appellant had reduced the capital value to 1988 but 4.8% was being used as representative of interest rates in 1997. According to Mr. Dineen a percentage appropriate to 1988 should be used.

Mr. Dineen referred to the Verolme Dockyard valuation. This property was in liquidation and had been for sale for a number of years. It was a shipbuilding facility and no ship had been built there since 1985. Mr. Dineen said he had valued this property on appeal. He had used the contractor's method and valued the facility as a redundant shipyard.

Under cross-examination by Mr. Hickey, Mr. Dineen said he had valued Verolme pursuant to the valuation statutes to arrive at a N.A.V. Mr. Dineen agreed it was a fair comparison for Mr. Bagnall to look at.

In reply to questions by Mr. Hickey about his Irish Ispat comparison, Mr. Dineen said he had valued the subject discounted by 30% with respect to this comparison. The normal quantum allowance for buildings is 10% to 15%.

In further replies, Mr. Dineen said he had valued the furnaces as fixed furnaces. He agreed, however, with Mr. Saville's evidence about the moving parts.

Mr. Dineen said his preferred comparisons for the buildings at the subject were Irish Glass Bottle and Irish Ispat. Mr. Dineen said Munster Joinery was not a very suitable comparison.

Mr. Hickey cross-examined Mr. Dineen about his objection to the use of the 4.8% used by Mr. Bagnall. Mr. Dineen said that the 4.8% in the Henkel case dealt with an item, which was not a furnace. He said he had included in his comparison three furnaces at 6.5%

Again Mr. Dineen stated that the Henkel case was decided in 1993. He said Mr. Bagnall should have used a 1988 decapitalisation rate when interest rates were higher.

The hearing resumed on 29th March 1999 at the Tribunal's offices in Dublin for the purposes of hearing legal submissions. Prior to the resumed hearing the appellant and the respondent had provided the Tribunal with written legal submissions.

At the outset of the hearing the appellant's agent showed a film of the workings of the furnaces which lasted for about twelve minutes. He also provided the Tribunal with three photographs taken on 23rd day of February 1999, relating to the electric arc furnace.

Mr. Hickey's legal submissions dealt with the issue of the rateability of the three furnaces. He contended that they were not rateable on a number of grounds;

(1) That the moving parts of the arc furnace and the ladle furnace were not rateable pursuant to Section 7 of the Annual Revision of Rateable Property (Ireland) Amendment Act, 1860 as amended by Section 7 of the Valuation Act 1986.

(2) The three furnaces taken together and individually constitute machinery and were therefore not rateable.

(3) The arc furnace and the ladle furnace are non-rateable plant.

Mr. Hickey's written legal submission is annexed to this judgment as **Appendix C.**

Mr. Walshe's written legal submission dealt with the issue of quantum of rateable valuation and also the issue of rateability of the three furnaces.

Mr. Walshe contended that the three furnaces were rateable plant as defined in Section 1(2) (a) or (b) of the Valuation Act 1986. Section 7(2) of the 1986 Act made plant as contained at reference No.2 in the schedule of the Act of 1860 as inserted by Section 8(1) of the Valuation Act 1986 rateable. The reference at No. 2 in the schedule is to fixed furnaces.

Mr. Walshe conceded that the moving parts of the electric arc furnace and the ladle furnace were not rateable by virtue of Section 7(3) of the Valuation Act 1986.

Mr. Walshe's written legal submission is annexed to this judgment as **Appendix D.**

The Tribunal has considered the written submissions, evidence and the legal submissions of the appellant and the respondent. The Tribunal finds that the three items whose rateability is contested are furnaces being apparatuses in which metals are subjected to continuous intense heat.

The Tribunal finds that the reheat furnace is rateable plant as defined in Section 1(2)(a) of the Valuation Act 1986 and at reference No.2 of the schedule as inserted by Section 8(1) of the same Act.

This finding is based on the Mr. Saville's evidence that this furnace was not removable from the premises in which it was housed.

The Tribunal finds that the electric arc furnace and the ladle furnace are rateable plant as defined by Section 1(2)(b) of the Valuation Act 1986 and at reference No.2 as inserted by Section 8(1) of the same Act.

This finding is based on the evidence of Mr. Saville. This evidence showed that these furnaces had taken a substantial period of time to install and had been *in situ* for a long period. Again these furnaces were of a substantial size and weight. Mr. Saville had also stated in his evidence that the furnaces were essential to the steel making process. Indeed the steel making process could not take place in the absence of the furnaces.

Finally Mr. Dineen's evidence as to the location of these furnaces within a configuration which included two very heavy cranes also contributed to the Tribunal's finding.

The Tribunal finds that 5% of the arc furnace and 10% of the ladle furnace is rateable pursuant to Section 7(3) of the Valuation Act 1986.

This finding is based on the uncontested evidence of Mr. Saville that only 5% of the arc furnace was not moving and 10% of the ladle furnace was not moving.

Buildings

The parties are agreed in relation to the nature and the size of the buildings and that the comparative method is the appropriate method of valuation to be adopted. However, in assessing the N.A.V. differences arise in whether or not different rates per square metre should be applied to areas of different eaves height and the appropriate rates per square metre.

It is agreed that these are very basic buildings, a few having concrete block or brick walls but most being steel framed with corrugated iron cladding over concrete starters and corrugated iron pitched roofs on steel frames. Some of the buildings are as much as ninety years old and the most modern is twenty years old.

From the evidence adduced in relation to the nature of the buildings and their condition, it appears to the Tribunal that they are more in the nature of a cladding or protection for plant and machinery than more standard industrial units that would be adaptable to other uses. However they are part of a steel manufacturing facility and serve that function perfectly adequately, as is evidenced by the information provided that while virtually the entire plant was scrapped and replaced new buildings only came to 4,033m^2 out of a total of 35,400m^2. The buildings extend to 35,400m^2 (3.5 hectares/8.75 acres) which is a vast industrial complex and while obviously some quantum allowance must be made in relating the value of this property to the comparisons provided, it must also be borne in mind that no evidence was offered that the accommodation provided was in excess of requirements for this facility.

In relation to the comparisons provided the common comparison of the Ispat building on the mainland is most relevant in that it is common case that it is similar in construction to the subject premises. However it is only one tenth of the size of the subject premises and is better located on the mainland. A further comparison that is appropriate is the Verolme Dock yard although some questions remain in relation to this comparison in that it was stated by Mr. Dineen that it was valued on a contractor's basis although why this should be so was not clear and also that if it had not been in liquidation at the time of valuation the pre-revision rateable valuation of £4,000 would have remained and not the £800 figure that was set on revision. Again it is not clear why this should be so. The comparison of the Greenore Dundalk Port steel storage yard and concrete yard are the only comparisons provided for consideration in relation to the yard areas of the subject.

As the buildings comprise basically one inter-linked unit of varying eaves height to accommodate different plants and processes we would concur with the appellant's view that the entire should be treated at the same rate per square metre throughout. There is no evidence offered that persuades us that doubling the eaves height provides for doubling in the rate p.s.m.

The buildings are therefore valued as follows;

	35,400 m^2 @ £11.00 p.sq.m.	=	£389,400
Yards	4546 m^2 @ £2.00 p.sq.m.	=	£ 9,092
Total			£398,492
Say			£400,000
N.A.V. @ 0.5%		=	£2,000 R.V.

The Docks

The valuers are again agreed on the nature of the docks. The two main docks being the scrap unloading dock and the finished product loading dock at 95 linear metres each totaling 190 linear metres and the Spencer Jetty, a lay-by berth used generally for the storage of refractory materials at 134 linear metres.

The appellant dealt with the matter on the basis of previous agreements with the Valuation Office in relation to other docks where they had accepted a figure of £8,200 per linear metre as being the cost of constructing a quay wall. In the older type docks a 50% discount had been allowed for obsolescence and in one case where the dock had been rarely used it had been depreciated to 10%. The respondent argued that the matter should be dealt with on a revenue or profits basis and provided estimates of the saving in transport costs incurred by having berths as part of the facility rather than having to use the closest alternative which is Ringaskiddy deep water berth and estimated these savings at £1,425,000 per annum. There was no evidence offered by the respondent that this was a method that was used by the Commissioner and neither was there any supporting evidence in relation to the suggested savings. The respondent did not show how the proposed saving of £1,425,000 per annum related to a suggested N.A.V. of £100,000 and thus an R.V. of £500.

Under the circumstances we must follow the appellants method in this section of the valuation as it is the only method put before us on which similar docks had been agreed with the Commissioner and it is noted that Mr. Dineen in cross-examination confirmed that the appellant's comparison number two is correct.

We value the docks therefore as follows;

Main docks 190m @ £8,200 per linear metre	=	£1,558,000
Depreciate by 50%	=	£ 779,000
Rental value 5%	=	£ 38,950
@ 0.5%	=	£ 194.75
Say	=	£195

Spencer Jetty 134m @ £8,200 per linear metre	=	£1,098,800
Depreciate by 50% (although this is used as a lay-by dock it does have alternative use for storage purposes and therefore we see no justification to reduce to 10%)	=	£ 549,400
Rental value 5%	=	£ 27,470
@ 0.5%	=	£ 137.35
Say	=	£ 138.00
Total Docks R.V.	=	£ 333.00

Furnaces

Each valuer adopted a similar approach in valuing the furnaces, namely taking a capital value or cost and a percentage rate of return on this capital to determine an N.A.V.

The appellant dealt with the three furnaces separately and taking into account their

(a) cost of installation

(b) current book value and

(c) value to the manufacturing process

estimated a capital value as at the valuation date of May 1997. This was then adjusted back to reflect 1988 levels and a rate of return of 4.8% as in the Henkel case VA93/3/004. On this basis the appellant proposed rateable valuations as follows;

1.	The electric arc furnace	£200
2.	The ladle	£300
3.	The reheat/billet furnace	£ 50

The respondent dealt with the electric arc furnace and the reheat/billet furnace together and dealt with their initial capital cost. Modernisation was excluded from consideration on the basis that it was maintenance. It was proposed that no alteration should be taken to adjust the figure to 1988

due to high inflation over the period from initial installation up to 1988. An allowance of 25% was made for obsolescence and a rateable valuation of £952.50 resulted.

The ladle furnace was dealt with on a similar basis but as it was installed at a cost of £2.31 million in 1992/3 the figure was adjusted back to 1988 at 10% and 10% obsolescence allowance was also made. Again applying the rate of return of 6.5% a rateable valuation of £611 resulted. These valuations totalled £1,563.50 and the respondent proposed a rateable valuation of £1,500.00.

To deal first with the rate of return or de-capitalisation figure the evidence of the respondent that a figure of 6.5% was used in relation to furnaces in three locations was not disputed and the rate of return of 4.8% proposed by the appellant in the Henkel case does not relate to a furnace. The Tribunal therefore has decided to follow the figure of 6.5%.

No evidence was given that the furnaces are reaching the end of their economic lives or that the level of maintenance required is other than the norm although the appellant's evidence that the furnaces may not be efficient enough to deal with increased production is noted.

The appellant provided no basis for linking the three valuation elements he suggested to his estimate of current capital value at May 1997. Therefore this approach cannot be used by the Tribunal in arriving at an R.V.

The Tribunal therefore follows the respondent's figures taking the three furnaces separately as follows;

1 Electric Arc: Estimate of 1988 capital value	£3,010,000
Less 25% obsolescence	£2,257,500
@ 6.5%	£ 146,737 N.A.V.
£146,737 x 5%	£ 7,337
@ 0.5%	£ 37 R.V.

Ladle: Capital cost 1992/1993	£2,310,000
Adjusted to 1988 by 10%	£2,079,000
Less 10% obsolescence	£1,871,000
@ 6.5%	£ 121,621 N.A.V.
@ 10%	£ 12,162
@ 0.5%	£ 60.81
Say	£ 61.00 R.V.
Reheat Furnace: Estimated 1988 value	£900,000
Less 25% obsolescence	£675,000
@ 6.5%	£ 43,875
@ 0.5%	£ 219.50
Say	£ 220.00
Total R.V. for furnaces	£ 318.00
Total R.V. for buildings	£2,000.00
Total R.V. for docks	£ 333.00
	£2,651.00
Add for agreed tanks and H.P.	£ 930.00
	£3,581.00

And the Tribunal determines the total rateable valuation of the subject hereditament to be £3,581.