

Valuation of plant and machinery

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Summary



- Some history
- Rating and Valuation Act 1925
- Townley Mill Company (1919) Ltd v Oldham Assessment Committee [1937] AC 419
- What is “plant” and “machinery”?
- The Wood Committee
- The Valuation for Rating (Plant and Machinery) (England) Regulations 2000
- Berry (VO) v Iceland Foods Limited [2015] UKUT 0014 (LC)

Some History



- “From towards the end of the 18th century to the passing of the Rating and Valuation Act 1925, there had been controversy as to the inclusion in valuation of machinery and plant, and as to the extent to which (if machinery and plant were included) the valuation was to be affected. The series of judicial authorities on this subject extends from R v St Nicholas, Gloucester (1783) Cald. 262 to Kirby v Hunslet Union [1906] AC 43 and Smith v Willesden Union [1919] 89 LKKB 137.”
- Ryde on Rating 13th Ed. p.183.

Context for Rating and Valuation Act 1925



- Kirby v Hunslet Union [1906] AC 43
- All plant and machinery present on a property should be treated as part of the hypothetical letting.
- The rating authority should value the hereditament equipped with plant and machinery as it appears to the eye.
- Smith v Willesden Union [1919] 89 LKJ 137
- The hereditament must be valued on the assumption that the hypothetical landlord provides at his own expense the plant and machinery as well as the land and buildings, and that the hypothetical tenant pays a rent for all that is so provided.

Rating and Valuation Act 1925 s.24



- (a) All such plant and machinery in or on the hereditament as belongs to any of the classes specified in the Third Schedule to this Act shall be deemed to be part of the hereditament.
- (b) Subject as aforesaid, no account shall be taken of the value of any plant or machinery in or on the hereditament.
- 4 classes of machinery and plant specified in 3rd Schedule.
- Plant and Machinery (Valuation for Rating) Order 1927 prescribed items of plant and machinery falling within those classes.
- On written request, VO to furnish particulars of plant and machinery treated as forming part of the hereditament.

The Townley Mill case



- A 'silent' cotton mill contained a variety of 'process' plant and machinery (i.e. within s.24(1)(b)) and other items.
- Issue – should presence of 'process' plant and machinery be taken into account in estimating value of premises as a warehouse?
- Answer – No, the statute required the presence of the 'process' plant and machinery to be disregarded, otherwise the requirement that “no account” be taken of the value of that plant and machinery would not be satisfied.
- Value of occupation of the mill for the purpose of housing non-rateable plant and machinery must be disregarded.

What is “plant” and “machinery”?

- There is no statutory definition.
- “Plant” includes “whatever apparatus is used by a business man for carrying on his business, not his stock-in-trade which he buys or makes for sale...” Yarmouth v France (1887) 19 QBD 647.
- “Machinery” implies the application of mechanical means to the attainment of some particular end by the help of natural forces – Chamberlayne v Collins (1894) 70 LT 217.
- There are limits – a mobile mezzanine floor was an additional floor to the building – Rogers (VO) v Evans [1990] RVR 186.

The Wood Committee



- Reports of Expert Advisory Committee chaired by Mr Derek Wood CBE QC in 1993 and 1999 (Cm 2170 and Cm 4283).
- Review of law and practice with a view to updating and harmonising rating of plant and machinery throughout UK.
- Underlying conceptual approach of the then existing regulations was soundly based.
- Rateability of plant and machinery should continue to be determined in accordance with 5 rules.
- Committee's recommendations now form basis for Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (as amended).

Wood Committee – 5 rules



- The land and everything that forms part of it and is attached to it should be assessed.
- Process plant and machinery which can fairly be described as ‘tools of the trade’ should be exempt within certain limits.
- Such plant and machinery which is or is in the nature of a building or structure or performs the function of such should be deemed to be part of the hereditament.
- Service plant or machinery (sometimes ‘motive’ plant), and items forming part of the infrastructure of the property should be rated.
- Sensible lines must be drawn in the case of plant and machinery which performs both functions which will indicate exactly how much falls to be rated and how much does not.

The Plant and Machinery Regulations 2000



- SI 2000 No. 540 (England); SI 2000 No.1097 (W.75) (Wales).
- Made under paragraph 2(8) of 6th Schedule to the LGFA 1988.
- Regulation 2.
- *For the purpose of determining the rateable value of a hereditament for any day on or after 1st April 2000, in applying the provisions of sub-paragraphs (1) to (7) of paragraph 2 of Schedule 6 to the Local Government Finance Act 1988–*
- *(a) in relation to a hereditament in or on which there is plant or machinery which belongs to any of the classes set out in the Schedule to these Regulations, the prescribed assumptions are that:*
 - *(i) any such plant or machinery is part of the hereditament; and*
 - *(ii) the value of any other plant and machinery has no effect on the rent to be estimated as required by paragraph 2(1); and*
- *(b) in relation to any other hereditament, the prescribed assumption is that the value of any plant or machinery has no effect on the rent to be so estimated.*

The Plant and Machinery Regulations 2000



- 4 classes of plant and machinery assumed to be part of the hereditament.
- Class 1 – plant/machinery used in connection with generation, storage, primary transformation, main transmission of power.
- Class 2 – plant/machinery used in connection with services supplied to the hereditament (heating, cooling, lighting etc).
- Class 3 – wide variety of infrastructure equipment (railway lines, cables, lifts, conduits, pipelines etc).
- Class 4 – wide range of plant and machinery being a or in nature of a building or structure or integral part of such an item.
- All classes are subject to range of exceptions reflecting and giving effect to the 5 rules proposed by the Wood Committee.
- Regulation 3 - on written request, VO to supply particulars of plant and machinery assumed to form part of the hereditament.

Berry (VO) v Iceland Foods Limited [2015]



- Issue – the treatment under the 2000 Regulations of the air handling system at Iceland’s retail warehouse at Speke Liverpool.
- System designed to maintain store temperature during trading hours at an acceptable level for both functioning of refrigerated cabinets and comfort of staff and customers.
- Temperature range maintained at lower level outside trading hours.
- VTE held system was used mainly in connection with a trade process and so to be assumed to have no effect on hypothetical rent. VO appealed to UT(LC).

Berry v Iceland – Issue (1)



- Class 2 – excludes service plant and machinery which is *“used ...in connection with services...as part of manufacturing operations or trade processes”*.
- Issue - Is the air handling system used as part of a trade process?
- Answer – No.
- Full reasoning at [57]-[67].

Berry v Iceland – Issue (1)



- [65] *....the common defining characteristic of manufacturing operations and trade processes is activity bringing about a transition from one state or condition to another, including by the creation, completion, repair or improvement of the subject matter of that activity. While there may be exceptions, we do not consider that the display or storage of goods in itself could ordinarily be said to involve any trade process. Nor do we consider that the creation of an environment conducive to the display or storage of goods (at least in the context of a retail warehouse) is properly regarded as involving a trade process. The fact that the environment appropriate to the storage and display of the goods of a particular retailer requires more substantial or powerful equipment than is normally found in retail premises does not create a relevant distinction....*

Berry v Iceland – Issue (2)



- Class 2 – excludes service plant and machinery which is used ...in connection with services “*mainly*” as part of manufacturing operations or trade processes.
- Issue - If the system is used as part of a trade process, is it “*mainly*” so used?
- Answer – Yes.
- Full reasoning at [68]-[79].

Berry v Iceland – Issue (2)



- [78] *While we accept...that, by design, a balance is maintained between the needs of the cabinets to be kept at a temperature below 25° C and the need to provide a temperature which is comfortable for staff and customers, we accept Mr Parry’s evidence that the main technical and operational reason for Iceland’s selection of this air handling system is its suitability for the maintenance of an environment in which integral cabinets can operate successfully. [79] For these reasons, had we been satisfied that the preservation of the environment within the store at a temperature appropriate to the effective operation of the refrigerated cabinets could properly be described as a trade process, we would have found in Iceland’s favour that the air handling system was used in connection with services mainly as part of that trade process.*

Berry v Iceland – Issue (3)



- Issue – the rateable value of the hereditament taking account of the presence of the air handling system.
- UT(LC)'s approach –
- [100] It is permissible in law to adopt the contractor's basis of valuation for part only of a hereditament, for the purpose of determining the rateable value of the whole.
- [108] The VO's approach of amortising the cost of installing the air handling system over the period of its economic life was "unrealistic".
- [119] The contractor's basis of valuation was appropriate in the circumstances and the statutory decapitalisation rate should be applied.
- [120]-[123] The evidence did not merit an adjustment at Stage 5.

Berry v Iceland – Issue (3)



- UT(LC)'s approach is consistent with the VOA Rating Manual (Vol.4 Section 3.7) –
- *...subject to the reliability of the evidence, where the P&M is reflected in the base price/sq.m the direct or comparable rentals approach is normally to be preferred.*
- *Where the P&M is not reflected in the basic price/sq.m it will usually be valued by reference to cost following the contractor's basis of valuation.*

Law and practice before 1783

