



**TC01828**

**Appeal number: TC/2010/01726**

*Excise Duty – Seizure of vehicle and hand rolling tobacco – no order for condemnation of vehicle at Magistrates’ Court – appeal dismissed as vehicle restored.*

**FIRST-TIER TRIBUNAL**

**TAX**

**ANDREW CHEYNE**

**Appellant**

**- and -**

**THE COMMISSIONERS FOR HER MAJESTY’S  
REVENUE AND CUSTOMS**

**Respondents**

**TRIBUNAL: J. BLEWITT (JUDGE)  
P. WHITEHEAD (MEMBER)**

**Sitting in public at Leeds on 14 November 2011**

**Mr Cheyne, the Appellant, supported by Mrs Cheyne.**

**Ms Graham Wells, Counsel instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents**

## DECISION

1. This is an appeal against the decision of HMRC dated 7 January 2010 in which HMRC refused to restore the Appellant's vehicle and hand rolling tobacco seized on  
5 24 October 2009 at Dover Eastern Docks.

2. As was his right, Mr Cheyne also instigated condemnation proceedings and the case was heard at Dover Magistrates' Court on 25 November 2010. The Magistrates allowed Mr Cheyne's appeal in respect of his Citroen vehicle, but made an Order for Condemnation of the goods; 22.45kg of tobacco.

10 3. Both the Notice of Appeal and the decision of HMRC against which the appeal is made predate the hearing at the Magistrates' Court.

4. The Appellant helpfully provided a skeleton argument dated 27 September 2011 from which it was clear that the appeal to this Tribunal was not concerned with the seizure of hand rolling tobacco but, understandably, related to restoration of the  
15 vehicle and costs incurred due to the vehicle's depreciation, lack of MOT and road tax.

5. For reasons which remain unexplained, Ms Graham Wells clarified that the vehicle was not restored to Mr Cheyne until 29 September 2011; almost a year since the Magistrates had allowed Mr Cheyne's appeal in respect of the vehicle.

20 6. We were greatly sympathetic to Mr Cheyne's situation and what appeared to us, in the absence of any explanation, to be an excessive delay in restoring Mr Cheyne's vehicle to him.

7. This Tribunal has no jurisdiction to award the costs or compensation sought by Mr Cheyne. Further, the issue which was subject of this appeal has now been resolved  
25 in Mr Cheyne's favour and his vehicle has been restored to him. Mr Cheyne confirmed that his appeal to the Tribunal did not relate to the hand rolling tobacco.

8. Consequently, there is no issue before this Tribunal to be determined and we dismiss the appeal accordingly.

9. This document contains full findings of fact and reasons for the decision. Any  
30 party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)"  
35 which accompanies and forms part of this decision notice.

**TRIBUNAL JUDGE**  
**RELEASE DATE: 23 November 2011**

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