MALTA

QORTI TA' L-APPELL

**ONOR. IMHALLEF
ANTHONY ELLUL**

Seduta tal-5 ta' Lulju, 2013

Appell Civili Numru. 4/2013/1

Joseph Bajada u SB Autocentre Limited

Vs

Awtorita' ghat-Trasport f'Malta

Il-Gimgha, 5 ta' Lulju 2013.

Dan hu appell minn decizjoni tal-25 ta' Jannar 2013 tat-Tribunal ta' Revizjoni Amministrattiva wara li l-appellanti appellat minn decizjoni tal-Awtorita' li taqra hekk:-

"on the 16th December 2010 Transport Malta Gozo Operation Manager had carried out a post VRT inspection on vehicle bearing registration number LAD 647. During the inspection the vehicle was found with the following defects. Your test was carried on the 7th December 2010 and issued a passed test certificate (C 2493462). ***Broken right tail light****, front tyres not serviceable, right front and rear lights not functioning. Please be informed that according to Legal Notice 43 of 2008 and Subsidiary*

Legislation 65.15 Schedule 12 item 15 and 10 and 11 you are therefore being penalized the total points of 70 points (seventy) that are equivalent to €770." (enfazi tal-qorti).

It-Tribunal sab li kienet korretta d-decizjoni tal-Awtorita li l-vettura ma kellix tghaddi mit-test tal-VRT ghaliex kellha ***"Broken right tail light"***, u osserva:-

"Il-Parti 1.1 tal-manual esebit mir-Rikorrenti, li tittratta dwar Front and Rear Position Lamps, Registration Plate Lamps u Rear Fog Lamps, tipprovdi li waqt spezzjoni tal-fanali kemm ta' quddiem kif ukoll ta' wara ta' vettura ghandu fost affarijiet ohra jigi verifikat that the lamps are complete, in good working order and clean u wahda mir-reasons for rejection hija appuntu li a front position lamp or rear position lamp [is] incomplete, not in good working order or not clean, i.e. damaged or deteriorated, or not visible from a reasonable distance11. Minn dan il-manual jirrizulta ghalhekk illi kuntrarjament ghal dak affermat mir-Rikorrenti, dan in-nuqqas partikolari fit-tail light tal-vettura ravvizat mill-ufficjal ta' l-Awtorità intimata kellu effettivament iwassal ghal rizultat negattiv tal-VRT test u mhux jithalla ghaddej qisu qatt ma kien xejn. Ghaldaqstant, din il-parti tad-decizjoni ta' l-Awtorità intimata fil-konfront tar-Rikorrenti tirrizulta li hija korretta u b'hekk qed tigi kkonfermata.".

L-aggravji tal-appellant huma li:

1. It-Tribunal ghamel interpretazzjoni skorretta ta' dak li jinghad fil-manual applikabbli ghal mod kif ghandu jsir VRT. Il-manual jaghmel biss riferenza ghad-dawl ta' quddiem, u brake lights ta' vettura. Fil-manual m'hemm l-ebda riferenza ghal reverse lights.
2. Ix-xhieda li nghatat min Lino Abela, ufficjal tal-appellata li qal: *"Qed nigi muri diversi ritratti fejn jidher dan il-fanal u l-mod kif jidher dan il-fanal m'hemmx raguni ghalfejn jigi failed."*.

L-appellata wiegbet fit-18 ta' Marzu 2013 li d-decizjoni ghandha tigi kkonfermata.

It-Tribunal ibbaza d-decizjoni tieghu fuq dak li jinghad fil-parti tal-manwal esebit, *1.1 Front and Rear Pisition Lamps, Registration Plate Lamps, Rear Fog Lamps* fejn jinghad li min qed jaghmel it-test ghandu d-dmir, fost'ohrajn:

"1. Check that two front and two rear position lamps are fitted to the vehicle, one of each on each side.

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4. Check that the lamps
a. are complete, in good working order and clean."[1].

Il-vettura ma tghaddix mit-test f'kaz li:-

"4. A front positon lamp or rear position lamp
a. ***incomplete, not in good working order or not clean, i.e. damaged*** *or deteriorated, or not visible from a reasonable distance."*[2].

L-appellant ipprezenta ritratti li juru l-fanal ta' wara tal-vettura li fuqha ghamel it-test u li wassal ghad-decizjoni tal-appellata li minnha sar appell. Il-fanal ghandu l-hsara fil-parti ta' taht, cjoe' fejn hemm reflector abjad.

Il-qorti taqbel perfettament mal-interpretazzjoni li ta t-Tribunal. M'ghandux ikun li l-fanal jinqasam f'partijiet differenti, kif qed jipprova jaghmel l-appellant. Il-fanal in kwistjoni hu wiehed, u fir-ritratti li pprezenta l-appellant tidher l-hsara evidenti. Fil-fatt hu mxaqqaq f'zewg postijiet u parti minnu hi nieqsa. 'Il fatt li l-hsara hi fil-parti fejn tixghel bozza kif ix-xufier idahhal il-gear fuq reverse, ma ghandha l-ebda rilevanza. Il-manwal ma jaghmilx distinzjoni f'liema parti tal-fanal hi l-hsara. Il-fanal in kwistjoni hu *rear position lamp*. Ghalhekk ukoll jekk il-hsara li tidher fir-ritratti li pprezenta l-appellant qeghda f'xi parti ohra tal-fanal fejn ma tixghelx bozza warajh, il-qorti kienet tasal ghall-istess konkluzjoni.

[1] Ara kolonna *Method of Inspection* – fol. 31.
[2] Ara kolonna *Reason for Rejection* – fol. 31.

Inoltre, fil-fehma tal-qorti t-Tribunal ma kienx marbut li jaccetta dak li qal Lino Abela waqt is-seduta tat-28 ta' Ottubru 2011. Ghalkemm meta ntwera r-ritratti tal-fanal qal li *"...m'hemmx raguni ghalfejn jigi failed."*, dik hi biss opinjoni u mhux xi fatt.

Ghal dawn il-motivi l-appell qieghed jigi michud bl-ispejjez kontra l-appellanti.

< Sentenza Finali >

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