

Appeal No: VA17/5/857

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

EE GROUP

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2195168, Retail (Shops) at Unit 63.63a Athlone Town Centre, Mardyke Street,
Athlone, County Westmeath.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF JULY, 2024**

BEFORE

Fergus Keogh - MSCSI, MRICS

Tribunal Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th day of October 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ('the NAV') of the above relevant Property was fixed in the sum of €103,800.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

“The valuation is excessive and inequitable, is not appropriately relative to other similar properties, does not reflect the size, character, nature and location of the subject property and circumstances pertaining.”

1.3 The Appellant considered that the valuation of the Property ought to have been determined in the sum of €71,400.

2. RE-VALUATION HISTORY

2.1 On the 12th day of January 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (‘the Act’) in relation to the Property was sent to the Appellant indicating a valuation of €103,800.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September 2017 stating a valuation of €103,800.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th day of October 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and on the agreement of the Parties the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In this appeal the Appellant was represented by Mr. Adrian Power-Kelly who is the principal of Power-Kelly & Company, Chartered Valuation Surveyors, Commercial Property

Consultants and Rating Consultants. The Respondent was represented by Ms. Triona Mc Partlan of the Valuation Office (now Tailte Eireann), ('the Parties').

3.3 In accordance with the Tribunal's directions, the Parties exchanged their respective summaries of evidence and submitted them to the Tribunal

4. **FACTS**

4.1 The Parties are agreed as to the following facts.

4.2 Athlone Town Centre ('the Centre') was constructed in the mid-2000's and opened for trade in 2007. It is a modern shopping centre which trades over two floors with underground car parking for 1,200 cars. Access to the Centre is via three pedestrian routes from Dublin Gate Street, Gleeson Street and the Civic Square. Escalators provide internal circulation. There is approximately 70 no. shop units within the Centre with traders and occupiers including Marks & Spencer, Next, Zara, River Island, H & M, Tommy Hilflger, Oasis, Easons and the Sheraton Hotel.

4.3 The subject Property which is known as Unit 63 & 63A and identified by the Property Number 2195168 is located at ground floor level. The ground floor level may be accessed from both Gleeson Street and the Civic Square. It comprises a kiosk type unit trading as Starbucks and occupies a position in the central mall area opposite Zara and Sketchers.

4.4 The Property extends in total to 186.88 m² and is divided into two sections comprising a serving / seating area and a seating / storage area. The two areas are separated by a pedestrian walkway. The storage area is adjacent to a stairs and is enclosed. The seating area is open within the mall area and cordoned off with waist high partitions / barriers.

4.5 The Property is occupied by the Appellant under a full repairing and insuring lease for a term of 20 years from the 7th July 2015 subject to a headline rent of €60,000 pa. The rent is abated by way of a side-agreement with the tenant paying rents of €55,000 pa for years one and

two, €57,500 pa for year three and €60,000 pa for years four and five. There was a 9 month rent free period allocated to year one.

5. ISSUES

5.1 The sole issue in this appeal is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references hereinafter to a particular section of the Valuation Act 2001 refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015 and other Acts.

6.2 In Revaluation type appeals, as in this appeal, sec. 37 provides that the Valuation Tribunal must reach a determination having regard to the provisions of sec. 19 (5) of the Valuation Act 2001 that shall achieve both (insofar as is reasonably practicable);

- (a) *correctness of value and,*
- (b) *equity and uniformity of value between properties on that valuation list, and so that (as regards the matters referred to in paragraph (b)), the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.*

6.3 The net annual value (NAV) of the Property must be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the basis in calculating the net annual value as follows:

“ Subject to Section 50, for the purposes of this Act, ‘net annual value’ means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 In his précis, Mr. Power-Kelly outlined the location, description, size and physical characteristics of the subject Property and the Centre. He confirmed the basis and the date of valuation. He supplemented his text with maps, plans and photographs.

7.2 In the Notice of Appeal dated 11th October 2017 submitted by Power-Kelly & Company on behalf of the Appellant, a valuation of €71,400 was stated as being the valuation of the Property sought by the Appellant in accordance with the matters set out in section 19(5) of the Act. In his précis Mr. Power- Kelly contended for valuation of €46,250 (rounded) based on applying a rate of €247.50 per m² to the floor area of 186.88 m².

7.3 Mr. Power-Kelly stated that a number of factors influenced the value of the Property. He stated that prior to the completion of the M6 motorway Athlone would have been a thriving town due to the volume of passing traffic. He stated that the Property is hidden behind a lift / stairs area and behind two other competitors. It is located at the opposite end of the mall from two anchor units. He stated that on account of the physical characteristics of the Property that it was not comparable to other units within the Centre being divided in two by

a public walkway and that the Property should not be valued by using the Zoning Method of Valuation as its configuration does not lend itself to being zoned.

7.4 In support of his opinion of value Mr. Power-Kelly, in his précis under the heading of *Market Rental Evidence & Tone of the List*, submitted summary details of four comparison properties, which included the subject Property as follows;

- (1) Comparison No. 1 - Mr. Power-Kelly confirmed the terms of the lease and a side agreement under which the Property is held and analysed the reserved annual stepped rents of €55,000 pa for years one and two, €57,500 pa for year three and €60,000 pa for years four and five as a net effective rent (NER) of €49,250 pa over the five year period having regard to a nine month rent free period in year one, an average €265 per m² and an NER of €263 per m² as at the valuation date.
- (2) Comparison No. 2 was Unit 17 a single unit at first floor level occupied by *Flying Tiger* and let on a 15 year lease from the 2nd November 2015 at a rent of €298.80 per m². He stated that the rent reflected a 12% uplift on the NER of the subject Property due to its location. Other first floor occupiers included Easons, H&M, Zara and Marks & Spencer.
- (3) Comparison No. 3, (PN 219167) was Unit 65, a ground floor level kiosk unit located behind the lift / stairwell area and occupied by *Fun Tech*. Mr. Power-Kelly stated that it was valued by the Respondent at a Zone A Rate of €550 per m² noting that the valuation of the subject Property by the Respondent reflected a 10% uplift due to its better location.
- (4) Comparison No. 4, (PN 2209541) was Unit 1, an external unit occupied by *The Fatted Calf* and valued by the Respondent at an overall rate of €225 per m². He stated that the Zoning Method of Valuation was not adopted by the Respondent in this example.

7.5 Mr Power-Kelly stated that he had valued the subject Property at an overall rate of €247.50 per m² which reflected an uplift of 10% on the rate applied in Comparison No. 4 above to give a valuation of €46,250 as follows.

Floor Use	Area m²	€ per m²	€	NAV
Entire	186.88	€247.50	€46,253	
			Say,	€46,250

8. RESPONDENT'S CASE

8.1. Ms. Mc Partlan outlined the location, description, size and physical characteristics of the subject Property and the Centre. She stated the background and the valuation history of the subject appeal including the consideration of representations by the Valuation Manager. She provided a summary of the provisions of sections 48 and 19(5) of the Act. She confirmed the basis and the date of valuation and supplemented her text with maps, plans and photographs.

8.2 In her précis Ms. Mc Partlan contended for valuation of €99,500 based on applying a rate of €600 per m² to a kiosk floor area of 120.59 m² and €550 per m² to a Zone A retail area of 32.94 m² and €275 per m² to a Zone B retail area of 32.94 m². The contended valuation of €99,500 is a reduction from the List valuation of €103,800. Ms. Mc Partlan applied similar euro rates per m² as used in the List Valuation but adopted revised areas in her valuation as follows:

List Valuation

Level	Use	Area m²	€ per m²	NAV
0	Kiosk (Unit 63)	113.00	€600	€67,800
0	Retail Zone A (Unit 63A)	59.30	€550	€32,615

0	Retail Zone B (Unit 63A)	12.50	€275	€3,437.50
				€103,852.50
			Say,	€103,800

Revised Contended Valuation

Level	Use	Area m ²	€ per m ²	NAV
0	Kiosk (Unit 63)	120.59	€600	€72,354
0	Retail Zone A (Unit 63A)	32.94	€550	€18,117
0	Retail Zone B (Unit 63A)	32.94	€275	€9,058.50
				€99,500

8.3 Ms. Mc Partlan stated that the Respondent relied upon two items of market information, termed Key Rental Transactions ('KRT's'), to inform the estimate of the Net Annual Value of the subject Property. She said that these transactions were investigated and analysed in accordance with Valuation Office policy and procedures and regard was had to;

- The date of the transaction relative to the statutory valuation date,
- Any inducements which were included in the transaction and
- Any other individual features of the transaction.

Ms Mc Partlan stated that the results of this investigation provides what is described as the *Net Effective Rent (NER)* in each case and stated that the NER equates to the basis of valuation as set out in section 48 of the Act, on the statutory valuation date. The KRT's relied upon by Ms. Mc Partlan are as follows:

KRT Comparison No. 1

Property Number	2195132
Occupier	Shuz 4 U Ltd t/a Sketchers
Address	Unit 27, Athlone Town Centre
Total Floor Area	196.60 m ²
Lease commencement	14 th March 2016
Lease term	10 years
Rent per annum	€75,000
NER @ 30 th October 2015	€75,000
Retail Zone A	46.70 m ² @ €840 - Valued @ €550
Retail Zone B	47.50 m ² @ €420 - Valued @ €275
Retail Zone C	47.10 m ² @ €210 - Valued @ €137.50
Retail Zone D	55.30 m ² @ €105 - Valued @ €68.75
NAV	€49,000

This comparison is a shop within the Centre that is located opposite to the subject Property. The valuation was not appealed to the Valuation Tribunal. The lease commencement date is approximately 6 months after the Valuation Date.

KRT Comparison No. 2

Property Number	2195150
Occupier	Pandora
Address	Unit 18, Athlone Town Centre
Total Floor Area	83.10 m ²
Lease commencement	10 th July 2016
Lease term	10 years
Rent per annum	€40,000
NER @ 30 th October 2015	€40,000
Retail Zone A	46.80 m ² @ €615.85 - Valued @ €550
Retail Zone B	36.30 m ² @ €307.92 - Valued @ €275
NAV	€35,700

This comparison is a shop within the Centre that is located in close proximity to the subject Property. The lease commencement date is approximately 3 months prior to the Valuation Date.

- 8.4 In support of her opinion of value and as *Evidence of Equity and Uniformity* Ms. Mc Partlan included in her précis details of two NAV comparisons of properties in the Centre located close to the subject Property.

NAV Comparison No. 1

Property Number	2195165
Occupier	Jump Juice
Address	Unit 61, Athlone Town Centre
Floor level	0
Floor use	Kiosk
Area	31.70 m ²
€ NAV per m ²	€600
Total NAV	€19,020

This comparison is a kiosk unit with a seating area and is located in close proximity the subject Property. The valuation was not appealed to the Valuation Tribunal.

NAV Comparison No. 2

Property Number	2195165
Occupier	O'Brien's
Address	Unit 62, Athlone Town Centre
Floor level	0
Floor use	Kiosk
Area	89.80 m ²
€ NAV per m ²	€600
Total NAV	€53,800

This comparison is a kiosk unit with a seating area and is located in close proximity the subject Property. A representation was received by the Respondent in relation to the valuation and the valuation was not appealed to the Valuation Tribunal.

8.5 Subject to the foregoing Ms. Mc Partlan contended for a valuation of €99,500 as follows;

Level	Use	Area m²	€ per m²	NAV
0	Kiosk (Unit 63)	120.59	€600	€72,354
0	Retail Zone A (Unit 63A)	32.94	€550	€18,117
0	Retail Zone B (Unit 63A)	32.94	€275	€9,058.50
				€99,500

8.6 Mr. Power- Kelly submitted a counter submission commenting on Ms. Mc Partlan's précis, ordering his comments in the same numerical order as they arise in Ms. Mc Partlan's submission.

In relation to the interpretation and application of sections 48 & 19(5) in the valuation exercise and the estimation of an NAV he noted Ms. Mc Partlan's comment 'that the actual rent for any individual property may be material in deriving that estimate'. He stated that Ms. Mc Partlan's disregard of the rent being paid for the subject Property is an incorrect approach when the lease of the Property was an open market letting to a willing tenant by a willing landlord.

Mr. Power-Kelly noted that the effective date of the lease was 7th July 2015 and in his opinion the NER of the Property is €49,250, having regard to the stepped rents and the rent free period. He said that this NER was substantially less than the NAV of €99,500 sought by the Respondent. He stated that even if regard was to be had to the average annual rent payable under the side agreement of €57,500 pa, disregarding the rent free period or the headline rent of €60,000 pa., that both figures are substantially less than the NAV sought by the Respondent.

Mr. Power-Kelly disagreed with Ms. Partlan's opinion of the relative prominence of the subject Property and its location within the Centre.

Mr. Power-Kelly addressed comments in Ms. Mc Partlan's précis on the Rental Evidence & Market Information submitted on behalf of the Respondent.

He stated that in relation to KRT No. 1 (PN 21495132), that this was an own door lock-up shop, fully enclosed and self-contained and that the subject Property does not have these features / benefits. The lease transaction dates from 2016 whilst the subject Property was let in 2015. The advised rent and NER of €75,000 makes no reference to any inducements that may have applied and he noted that the NAV was €49,000 and substantially below the stated NER.

He stated that in relation to KRT No. 2 (PN 21495150), that this was an own door lock-up shop, fully enclosed and self-contained and that the subject Property does not have these features / benefits. The lease transaction dates from 2016 whilst the subject Property was let in 2015. The advised rent and NER of €40,000 makes no reference to any inducements that may have applied and he noted that the NAV was €35,700 and below the stated NER.

In relation to Ms. Mc Partlan's NAV Comparison No. 1, valued at €600 per m², Mr. Power-Kelly stated that this property was located at the apex of the mall opposite the Civic Square entrance. He stated that he considered that an allowance of 15% for this prime location would be reasonable in the same manner that the Respondent had made allowances for the advantages applying to other PN's. As this NAV Comparison is 'double fronted' being at the apex of the mall he stated that a further allowance of at least 10% would not be unreasonable. Mr. Power-Kelly noted that the area of this comparison was stated as being 31.70 m² and considerably smaller than the subject Property which he stated would warrant a further discount.

In relation to Ms. Mc Partlan's NAV Comparison No. 2, valued at €600 per m², Mr. Power-Kelly stated that this too was located at the apex of the mall opposite the Civic Square entrance and though adjacent to the subject Property, the subject does not enjoy the same prominence and visibility. Mr. Power-Kelly noted that the area of the comparison was

stated as being 89.80 m² and was considerably smaller than the subject Property which he stated would warrant a discount factor.

Mr. Power-Kelly stated that Ms. Mc Partlan's NAV Comparisons did not make a reference to the passing rents or NER's whereas in the subject case the effect rent as at 2015 is available.

9. SUBMISSIONS

9.1 No legal submissions were made by the Parties.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Westmeath.

10.2 The subject Property comprises a central mall kiosk style unit within the Athlone Shopping Centre and trades as a coffee shop. It extends in total to an area of 186.88 m² divided into two sections separated by a public walkway. It is held under a single 20 year lease from 7th July 2015 subject to a headline rent of €60,000 pa which was abated by a side-agreement with the tenant paying rents of €55,000 pa for years one and two, €57,500 pa for year three and €60,000 pa for years four and five. There was a 9 month rent free period allocated to year one resulting in an average rent paid of €49,250 pa over the first five year period of the lease.

10.3 The Property is required to be valued in accordance with sections 48 and 19 (5) of the Act by reference to the values of other comparable properties on the Valuation List. The statutory valuation date is the 30th October 2015. It follows that the Tribunal must consider the nature of the comparative evidence submitted to determine whether it supports the arguments advanced on behalf of the Parties. This determination can only set out a summary of the evidence before it. The précis, appendices, counter-submission and

commentaries submitted by the Parties have all been considered by the Tribunal in arriving at this Decision.

- 10.4 The Tribunal notes that Ms. Mc Partlan offered a lower opinion of value of the Property than that on the Valuation List. The decision to contend for a lower valuation was due to a correction made to the areas of the two sections of the Property. Ms. Mc Partlan adopted the same euro valuation rates per m² used in the preparation of her valuation as used in the preparation of the valuation of the Property as it appears on the Valuation List.
- 10.5 The Tribunal relies upon and decides on Appeals based on the evidence placed before it. It is a well-established principle that the onus rests with the Appellant to prove his / her case and provide evidence to the Tribunal that the Respondent's valuation of the property in question is incorrect and that the valuation should be amended. It follows that the Tribunal must consider the nature of the comparative evidence submitted to determine whether it supports the argument advanced on behalf of the Appellant.
- 10.6 Mr. Power-Kelly contended for a NAV valuation of €46,250 by adopting a rate of €247.50 per m² in his valuation and applying it to the overall area of 186.88 m². He stated that he did not consider it appropriate to value the subject property by the Zoning Method of Valuation due to its configuration. In his evidence he provided summary details of three properties to indicate Market Rental Evidence and the Tone of the List, details of which are set out in paragraph 7.4 above.

Comparison No. 1 was the subject Property and Mr. Power-Kelly relied upon the rental terms of the lease which he analysed as having a net effective rent (NER) of €49,250 pa and stated that this was a relevant comparison as the letting date was close to the Statutory Valuation Date of 30th October 2015.

Comparisons 2 was a standard shop unit analysed at €297.80 per m² and let within 10 days of the subject Property which he said contained a 15% uplift in the value he applied to the subject Property to reflect its superior location.

Comparison 3 is an example of a mall kiosk unit which he said is valued by the respondent at €550 Zone A and that the Respondent had valued the subject Property with a 10% uplift on this rate.

Comparison 4 is an external unit valued at €225 per m², a rate per m² that is less than his adopted valuation rate due to its location.

The areas of these comparisons 3 - 4 was not provided.

- 10.7 In relation to the interpretation and application of sections 48 & 19(5) of the Act in the valuation process and the estimation of the NAV, Mr. Power-Kelly quoted in part from Ms. Mc Partlan's précis where she stated 'that the actual rent for any individual property may be material in deriving that estimate'. He stated that Ms. Mc Partlan's disregard of the rent being paid for the subject Property is an incorrect approach when the lease of the Property was an open market letting to a willing tenant by a willing landlord.

The Tribunal notes that Ms. Mc Partlan's comment regarding the interpretation and application of sections 48 & 19(5) of the Act in the valuation process and passing rents went further to state, 'but is not in itself conclusive of Net Annual Value (NAV) in the context of Section 48 and Section 19(5)'. Ms. Mc Partlan added that 'the estimate of value arrived at for this property is what a hypothetical tenant would pay by way of rent in accordance with section 48, not necessarily what any particular tenant is paying'. Ms. Mc Partlan also stated that 'the collection of NER's by the Respondent equates to the to the basis of valuation as set out under section 48 and the collection of NER's provides the basis for deciding what is an appropriate NAV or Zone A to be applied'.

- 10.8 Ms. Mc Partlan contended for a valuation of €99,500 based on applying a rate of €600 per m² to a kiosk area of 120.59 m² and rates of €550 per m² Retail Zone A and €275 per m² Retail Zone B to areas of 32.94 m² respectively. No explanation was provided

by Ms. Mc Partlan as to her reasoning of combining two different methods of valuation in valuing the Property.

Ms. Mc Partlan relied upon two KRT comparisons as set out in paragraph 8.3 above. Both comparisons are of standard mall units analysed by the Zoning Method with lease commencement dates of March 2016 and July 2016 respectively.

KRT Comparison No. 1 was let under a 10 year lease from 14th March 2016 at a rent of €75,000 pa. The NAV is €49,000 based on an NER €75,000 (€381.48 per m²) as at 30th October 2015. The NER was analysed at a Zone A Rent of €840 per m² and was valued at an NAV of €550 per m² Zone A.

KRT Comparison No. 2 was let under a 10 year lease from 10th July 2016 at a rent of €40,000 pa. The NAV is €35,700 based on an NER €40,000 (€481.34 per m²) as at 30th October 2015. The NER was analysed at a Zone A Rent of €615.85 per m² and was valued at an NAV of €550 per m² Zone A.

No explanation was offered by Ms. Mc Partlan as to the disparity between the analysed NER's and the applied NAV's particularly having regard to the proximity of the lease commencement dates to the Statutory Valuation Dates in both comparisons.

In support of her valuation and as evidence of Equity & Uniformity Ms Mc Partlan relied up two NAV comparisons as set out in paragraph 8.4 above. Both comparisons are of central mall located kiosk units valued at €600 per m². Comparison No. 1 extends to 31.70 m² and Comparison No. 2 to 89.80 m².

- 10.9 The Tribunal accepts that Mr. Power-Kelly's analysis of the rents as set out in the side letter agreement attached to the lease to be relevant in establishing an NER and an NAV of the subject Property particularly having regard to the date of the letting and the fact that it was between a willing landlord and a willing tenant. The Tribunal also accepts

Ms. Mc Partlan's assertion that a passing rent is not itself conclusive of Net Annual Value and in the context of Section 48 and Section 19(5).

10.10 Ms. Mc Partlan's valuation is based on the analysis of two KRT's of standard shop units within the Centre where the resultant NAV's are substantially less than her analysed NER's in the two lettings. Her valuation is also based on adopting both the Zoning Method of Valuation and the euro rate per m² simultaneously to two distinct sections of the subject Property. The NAV Comparisons are of substantially smaller mall kiosk units and no allowance was made for the smaller sizes in the analysis of these comparisons relative to the overall size of the subject Property. The Tribunal considers that valuing part of the subject Property by the Zoning Method whilst valuing the remainder by using an overall rate per m² to be inappropriate having to its configuration and location.

10.11 The Tribunal is satisfied that Mr. Power-Kelly has demonstrated that the weight of comparable evidence supports the Appellant's opinion that the value of the Property is incorrect having regard to its size and configuration.

DETERMINATION

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €60,000 as follows;

Floor Use	Area m²	€ per m²	€	NAV
Entire	186.88	€320	€59,802	
			NAV Say,	€60,000

RIGHT OF APPEAL

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court. This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.