

1983 May 25

[PIKIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

STYLIANOS MILTIADOUS,

*Applicant,*-

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF FINANCE,

*Respondents.*

(Case No. 289/82).

*Customs and Excise Laws—Construction of section 09 of class 01 of the Fourth Schedule to the Laws—It purports to grant relief from import duty only to those who import vehicles specially adjusted to the needs of incapacitated persons.*

The applicant, a disabled person, whose disability did not prevent him from driving an ordinary car, applied\* to the Minister of Finance for relief from import duty for the importation of an ordinary motor car which was not a vehicle adapted to the needs and condition of disabled persons. The Minister turned down his application and hence this recourse.

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*Held*, that the plain provisions of the law confine relief from import duty to the importation of vehicles specially adapted to the condition of incapacitated persons, in other words, vehicles suitable for invalids; that the law did not purport to grant relief from import duty to disabled persons; only to those who imported vehicles specially adjusted to the needs of incapacitated persons; and that consequently the recourse must be dismissed.

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*Application dismissed.*

\* The application was made in pursuance of section 09 of class 01 of the fourth schedule to the Customs and Excise Laws which is quoted at p. 592 post.

**Recourse.**

Recourse against the decision of the respondent whereby his application for relief from import duty for the importation of saloon car D.V. 205 an ordinary motor vehicle was dismissed.

5        *E. Efstathiou*, for the applicant.

*S. Georghiades*, Senior Counsel of the Republic, for the respondents.

*Cur. adv. vult.*

10        PIKIS J. read the following judgment. The construction of section 09 of class 01 of the Fourth Schedule to the Customs and Excise Laws and its application to the facts of the case are the only issues calling for resolution in these proceedings. The

15        aforesaid provision of the law was approved by the Council of Ministers and made part of the law on 22.12.78 with its publication in the Gazette (No. 284). It aimed to give relief from the payment of duty for the importation of cars by disabled persons. The extent of the relief was left to the discretion of the Minister of Finance to be decided on a consideration of the financial circumstances of incapacitated persons.

20        The applicant, an employee of the Public Works Department, was maimed during the liberation struggle of 1955-59. His disability arose from the mutilation of part of the index finger of the left hand and left palm. His disability was certified by a Government Medical Board. It is not in dispute. In fact

25        he is the recipient of a disability pension.

      The disability of the applicant does not prevent him from driving an ordinary motor vehicle. This is common ground. A report by a technical inspector of the Office of Examiners of Vehicles confirmed this fact on 7.6.82. He is the holder of a

30        driving licence. It is the case for the applicant that his disability entitled him to the benefits of the aforementioned section of the Fourth Schedule to the law. In his view the benefits conferred thereby entitled every disabled person to the benefits of the law and not merely crippled persons who imported vehicles specially designed for invalids. On 4.12.81 he applied

35        to the Minister of Finance for relief from import duty for the importation of saloon car DV205, an ordinary motor vehicle; not a vehicle adapted to the needs and conditions of disabled

persons. Obviously the applicant had no need of such a vehicle for he was able to drive an ordinary car without hindrance. His application was refused on 18.6.82 on the ground that his claim fell outside the provisions of s.09 because it did not concern a vehicle specially adapted for use by a disabled person. 5

What we are required to decide is whether the decision is bad for misconception of the law. We shall cite the relevant provisions of the law before attempting to interpret them. The law provides -

“09—Μηχανοκίνητα όδικά όχήματα, ίπποδυνάμεως μή ύπερ- 10  
βαινούσης τά 2000 κυβ. έκατοστά, κατάλληλα πρός χρήςιν  
ύπό προσώπων πασχόντων έκ σωματικής άναπηρίας είσα-  
γόμενα ύπό άναπήρων προσώπων τών όποιών ή άναπηρία  
πιστοποιείται δεόντως ύπό επί τούτω συγκροτουμένου 15  
Κυβερνητικού Ίατρικού Συμβουλίου:  
.....”

*English Translation:*

(“Mechanically propelled vehicles of a horse power not exceeding 2000 c.c., proper for use by persons suffering from bodily incapacity, imported by incapacitated persons whose incapacitation is duly certified by a Government Medical Board.” 20

Mere citation of the provisions of the law makes it unnecessary to go much further in holding the recourse of the applicant to be totally devoid of merit. The plain provisions of the law confine relief from import duty to the importation of vehicles specially adapted to the condition of incapacitated persons, in other words, vehicles suitable for invalids. Nor is it difficult to discern the purpose of the law, to facilitate by means of vehicular transport the movement of disabled persons not otherwise possible. Evidently, it was not the intention of the law to afford relief from import duty to disabled persons, at the discretion of the Minister for the importation of any car. In other words, the law did not purport to grant relief from import duty to disabled persons; only to those who imported vehicles specially adjusted to the needs of incapacitated persons. Consequently the recourse must be dismissed. It is with a degree of hesitation that I refrain to order the applicant to pay costs. 25 30 35

*Recourse dismissed.*