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BETWEEN AUCKLAND REFRIGERATED
TRANSPORT LIMITED

Appellant

A N D MINISTRY OF TRANSPORT

Respondent

Counsel: T.R. Ingram for Appellant
C.Q.M. Almao for Respondent

Hearing and
Judgment: 4 September 1984

ORAL JUDGMENT OF GALLEN J.

On 1 February 1984 the appellant was convicted in the District Court on a charge of exceeding the gross weight specified in the distance licence for a motor vehicle referred to in the information as having the registered number HC 2397. The appellant did not appear and the conviction was entered and sentence imposed on the basis of formal proof given by a Traffic Officer.

Initially the appellant appealed on the basis that it was alleged that no proper method prescribed under the Road User Charges Act 1977 to weigh a truck had been promulgated. Mr Ingram does not proceed with the appeal on that basis.

He did however rely on the fact that the information referred to a specific motor vehicle as indeed it was obliged to do, having the registered number HC 2397. The Certificate of Ownership for the vehicle which was produced by the Traffic Officer as part of the formal proof also included that number. However, in his oral evidence the Traffic Officer indicated that the registered number of the vehicle he had inspected and weighed was HC 2309. Mr Ingram very fairly indicated that it was at least a possibility that the error was in the transcript. Whether that be so or not, the only material before me indicates that the vehicle referred to by the Traffic Officer may not have been the same as that specified in the information.

Under those circumstances, the appeal must be allowed. The information will be dismissed without prejudice to the right of the informant to lay the information again if it chooses so to do. Having regard to the circumstances, there will be no order for costs.



Solicitors for Appellant: Messrs Inder, Lynch, Conway
and Company, Papakura

Solicitor for Respondent: Crown Solicitor, Hamilton
