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Mr John McGuinness TD
Chairman
Public Accounts Committee
Leinster House
Dublin 2.

28/3/12

Re: National Aquatic Centre, incorrect VAT charge.

Dear Chairman

Thank you for your interest in this serious matter of abuse of taxpayer's funds.

I note from the published correspondence that neither the DTTS or Revenue appear to have replied to the issues raised following the PAC meeting of the 16th February 2012 and my further correspondence.

I trust that the PAC now accepts that the AG did not reverse his 2004 advice in 2005 and that CSID did not have any contemporaneous tangible support from either Revenue, the Department of Finance or indeed its own legal advisors on the VAT issue.

No evidence has been given to the PAC showing that CSID ever had any credible written advice whatsoever, stating that its VAT charge of €10,254,600 was correct.

I am appalled that the PAC was misled on these matters.

CSID paid over €14m of taxpayer's money to advisors, yet nobody is accountable. It is beyond credibility that advisors who, apparently, made such fundamental errors have not been made accountable for, either their own direct costs and the legal costs that have been awarded against the state.

The manner in which these advisors were selected, procured and paid €14m of taxpayers money has never been satisfactorily explained.

The stated reliance on guidelines is a red herring of recent origin. CSID and its advisors did not mention guidelines in any of the contemporaneous documents, correspondence, their audited accounts or indeed in their written submission to the Supreme Court.

You will also note that the DTTS did not provide a copy of the guidelines. This was because the guidelines make it absolutely clear that they have no legal status.

CSID did not need to spend €14m if it was only going to read guidelines.

Despite numerous meetings and correspondence between CSID and its advisors and DWW and its advisors and the Revenue Commissioners, CSID only ever mentioned VAT Regulation 19. Without the valuation report which we had repeatedly requested and were legally entitled to receive, our advisors were blindsided and openly misled by CSID.

The circumstances surrounding PwC's instruction to withhold the valuation report is a matter of grave concern. Had CSID acted lawfully, provided the report, and facilitated an open and transparent discussion, substantial costs would have been saved. I would also remind the PAC that PwC authored a feasibility study indicating profits of up to €2.7m.

I would bring to the attention of the PAC that all of the 2002/2003 CSID correspondence was carefully crafted, orchestrated and preapproved by its advisors.

CSID's silence in relation to PwC and their advice is puzzling. CSID's forbearance with PwC is in stark contrast to the manner in which CSID prosecuted DWW and forced its directors to exist under the threat of restriction under Section 214 of the Companies Act for five years on foot of a bogus VAT charge.

The Revenue Commissioners should also clarify the contradiction between their contradictory positions on CSID's taxable status, the validity of CSID's invoice and the alleged Revenue approval and assessment that CSID claimed to possess. Following detailed historic correspondence, I have separately written to the Revenue Commissioner and asked them to clarify their peculiar position. I await a response.

I would recommend the PAC to request the following documents so that it can understand what was afoot.

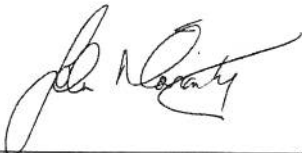
1. All PwC letters of engagement, advices and comments in relation to VAT and the original feasibility study.
2. Clarification from the Revenue Commissioners on CSID's taxable status, the validity of its invoice and on the manner in which Revenue communicated its views to CSID in 2002/2003.

It is only when these documents are provided that the PAC can understand who was accountable for this needless waste of taxpayer's money and why these funds have not been recovered.

I would remind the PAC that the Supreme Court stated that any person who supported CSID's approach "*gravely misled himself on the law*" and in relation to the €35m, (that CSID concealed and misrepresented) "*evidence was quite wrongly excluded from consideration*".

I look forward to the Committee concluding its work on this

Yours Sincerely

A handwritten signature in black ink, appearing to read 'John Moriarty', written over a horizontal line.

John Moriarty