Judgment of the Court (Third Chamber) of 18 October 2012 (reference for a preliminary ruling from the Augstākās tiesas Senāts — Latvia) — Mednis SIA v Valsts ieņēmumu dienests

(Case C-525/11) ([1])

(VAT — Directive 2006/112/EC — Article 183 — Conditions for the refund of the excess VAT — National legislation deferring the refund of part of the excess VAT pending examination of the taxable person's annual tax return — Principles of fiscal neutrality and proportionality)

(2012/C 379/19)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Mednis SIA

Defendant: Valsts ieņēmumu dienests

Re:

Reference for a preliminary ruling — Augstākās tiesas Senāts — Interpretation of Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — Deduction of input VAT — National legislation limiting monthly VAT refund — Deferment, until examination of annual tax return, of the refund of the part of overpaid VAT that exceeds 18 % of the total value of the taxable transactions carried out during the tax month in question

Operative part of the judgment

Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not authorising the tax authority of a Member State to defer, without undertaking a specific analysis and solely on the basis of an arithmetical calculation, the refund of part of the excess VAT which has arisen during a one-month tax period, pending the examination by that authority of the taxable person's annual tax return.

([1]) OJ C 6, 7.1.2012.

Order of the Court of 18 September 2012 — Omnicare Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Astellas Pharma GmbH

(Case C-588/11 P) ([1])

(Appeal — Community trade mark — Application for registration of the word sign 'OMNICARE' — Opposition — Decision of the Board of Appeal rejecting the application — Action — Judgment of the General Court dismissing that action — Withdrawal of the opposition — Appeal — No need to adjudicate)

(2012/C 379/20)

Language of the case: English

Parties

Appellant: Omnicare Inc. (represented by: M. Edenborough, QC)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: J. Crespo Carrillo, acting as Agent), Astellas Pharma GmbH (represented by: M.L. Polo Carreño, abogada)

Re:

Appeal brought against the judgment of the General Court (First Chamber) of 9 September 2011 in Case T-290/09 *Omnicare* v *OHIM — Astellas Pharma (OMNICARE)* in which the General Court dismissed an action, brought by the applicant for the word mark 'OMNICARE' for services in Class 42, for the annulment of Decision R 402/2008-4 of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 14 May 2009 annulling the Opposition Division's decision rejecting the opposition brought by the proprietor of the national mark 'OMNICARE' for services in Classes 35, 41 and 42 — Interpretation and application of Article 8(1)(b) of Regulation No 207/2009 — Notion of genuine use of an earlier mark — Mark used for services provided free of charge

Operative part of the order

1. *There is no need to adjudicate on the appeal brought by Omnicare Inc.*

2. *Omnicare Inc. shall pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) in the course of the present proceedings and the proceedings for interim measures.*

3. *Omnicare Inc. and Astellas Pharma GmbH shall each bear their own costs.*

([1]) OJ C 25, 28.1.2012.