



Reports of Cases

Joined Cases C-608/10, C-10/11, C-23/11

Südzucker AG and Others
v
Hauptzollamt Hamburg-Jonas

(Reference for a preliminary ruling from the Finanzgericht Hamburg)

(Agriculture — Export refunds — Incorrect indication of the exporter in the export declaration — National legislation making entitlement to an export refund subject to the entry of the applicant as the exporter in the export declaration — Correction of the export declaration after the goods have been released)

Summary of the Judgment

- 1. Agriculture — Common organisation of the markets — Export refunds — Conditions for granting — Right to a refund from the holder of the export licence — Existence subject to that holder being entered as the exporter in box 2 of the export declaration lodged with the competent customs office*
(Commission Regulation No 800/1999, as amended by Regulation 90/2001, and Art. 5(7))
- 2. Customs union — Customs declarations — Post-clearance examination — Revision of the export declaration — Changing the name of the exporter featuring in the box provided for that purpose — Lawfulness — Obligations of the customs authorities*
(Council Regulation No 2913/92, Art. 78(1) and (3))
- 3. Agriculture — Common organisation of the markets — Export refunds — Conditions for granting — Right to a refund from the holder of the export licence — Holder not registered as the exporter in box 2 of the export declaration*
Impossibility for the customs authorities to grant the export refund without prior correction of that declaration (Council Regulation No 2913/92; Commission Regulation No 800/1999, as amended by Regulation No 90/2001, Art. 5(7))
- 4. Customs union — Customs declarations — Post-clearance examination — Amendment by the customs export office of the words in box 2 of the export declaration or the T5 control copy — Obligatory nature for the competent customs authority to pay the export refund — Conditions — Verification being a matter for the referring court*
(Council Regulation No 2913/92, Art. 4(5))
- 5. Agriculture — Common organisation of the markets — Export refunds — Conditions for granting — Ability of the customs office responsible for paying the export refund to refuse an application for an export refund on the ground that the party applying for that refund is not the exporter of the goods*

referred to by that application — National law not providing for the obligatory nature of the correction by the customs export office — Not included — Decision of the competent customs office to grant the application for amendment and to validly rectify the exporter's name — Obligatory nature for the competent customs authority to pay the export refund

(Council Regulation No 2913/92; Commission Regulation No 800/1999, as amended by Regulation No 90/2001, Art. 5(7))

1. Article 5(7) of Regulation No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, as amended by Regulation No 90/2001 must be interpreted as meaning that, in principle, the holder of an export licence is entitled to an export refund only if he is registered as exporter in box 2 of the export declaration lodged with the competent customs office.

(see para. 44, operative part 1)

2. Article 78(1) and (3) of Regulation No 2913/92 establishing the Community Customs Code must be interpreted as allowing a post-clearance revision of the export declaration for the purpose of refunds, in order to change the name of the exporter featuring in the box provided for that purpose, and as meaning that the customs authorities are required:

- firstly, to examine whether a revision of that declaration must be considered to be possible in that, in particular, the objectives of the European Union legislation as regards export refunds have not been threatened and the goods in question have in fact been exported, this being a matter for the applicant to establish, as well as,
- secondly, where relevant, to take the measures necessary to regularise the situation, taking account of the new information available to them.

(see para. 52, operative part 2)

3. Article 5(7) of Regulation No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, as amended by Regulation No 90/2001, and the customs legislation of the European Union must be interpreted as meaning that, on the assumption that the holder of an export licence is not registered as the exporter in box 2 of the export declaration, the customs authorities cannot grant that holder the export refund without prior correction of that export declaration.

(see para. 56, operative part 3)

4. The customs legislation of the European Union must be interpreted as meaning that the customs office responsible for paying the export refund is bound by a post-clearance revision, by the customs office of export, of the reference in box 2 of the export declaration, or, as the case may be, of the T5 control copy, if the amending decision fulfils all the formal and substantive conditions of a 'decision' provided for both by Article 4(5) of Regulation No 2913/92 establishing the Common Customs Code. It is for the referring court to determine whether those conditions have been satisfied.

(see para. 67, operative part 4)

5. Article 5(7) of Regulation No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, as amended by Regulation No 90/2001, and the customs legislation of the European Union must be interpreted as meaning that the customs office responsible for paying the export refund is not entitled, if it is not bound under national law by the revision made by the customs office of export, to take at face value the reference in box 2 of the

export declaration and to refuse an application for an export refund on the ground that the party making that application is not the exporter of the goods covered by that application. By contrast, if the competent customs office grants the application for amendment and validly rectifies the exporter's name, the customs office responsible for paying the export refund is bound by that decision.

(see para. 76, operative part 5)