Re:

Request for a preliminary ruling — Cour de cassation (France) — Interpretation of Article 2(a) to the General Rule for the Interpretation of the Combined Nomenclature and of paragraph 7 of the Explanatory Notes to the Harmonised System — Common Customs Tariff — Tariff classification — Combined Nomenclature — Footwear manufacturing process — Assembly operations or working operations for completion into the finished state.

Operative part of the judgment

General Rule 2(a) for the interpretation of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version in force at the material time, must be interpreted as meaning that an upper, an outer sole and an inner sole, as an article presented unassembled having the essential character of footwear, come under heading 6404 of the combined nomenclature where, following their import, a counter must be inserted into the upper and the outer sole and the upper must be roughed for the purpose of their assembly.

([1]) OJ C 71, 9.3.2013.

Judgment of the Court (Seventh Chamber) of 13 February 2014 (request for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — Maks Pen EOOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia, formerly Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' Sofia

(Case C-18/13) ([1])

(Taxation — Common system of value added tax — Directive 2006/112/EC — Deduction of input tax — Supplies made — Tax inspection — Supplier not having the necessary resources — Concept of tax evasion — Obligation to make a finding of tax evasion of the court's own motion — Requirement that the service actually be supplied — Requirement to keep accounts in sufficient detail — Legal proceedings — National court prohibited from classifying the tax evasion as a criminal offence and adversely affecting the applicant's situation)

(2014/C 93/25)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Maks Pen EOOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia, formerly Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' Sofia

Re:

Request for a preliminary ruling — Administrativen sad Sofia-grad — Interpretation of Arts 63, 178(1)(a), 226(1), point 6, and 242 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, (OJ 2006 L 347, p. 1) — Concept of 'tax evasion' — Reference on the invoice to a supplier not having the personnel, equipment or assets required to supply the service — No accounting records — False documents drawn up to attest that the supply was made — Obligation on the national court to find of its own motion that there was tax evasion — Right to deduct subject to the requirement that a supply actually be made — Requirement to observe international accounting rules in order to satisfy the requirements of keeping accounts in sufficient detail to allow the right to deduct to be checked — Potential need to include in the invoices information regarding the actual supply of the service — National legislation deeming the service to be supplied when the conditions required for recognition of the revenue arising from that service are satisfied in accordance with the relevant legislation.

Operative part of the judgment

1. *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding a taxable person from deducting the value added tax included in the invoices issued by a supplier where, although the supply was made, it is apparent that it was not actually made by that supplier or by its sub-contractor, inter alia because they did not have the personnel, equipment or assets required, there was no record of the costs of making the supply in their accounts and the identification of persons signing certain documents as the suppliers was shown to be inaccurate, subject to the twofold condition that such facts constitute fraudulent conduct and that it is established, in the light of the objective evidence provided by the tax authorities, that the taxable person knew or should have known that the transaction relied on to give entitlement to the right to deduct was connected with that fraud, which it is for the referring court to determine.*

2. *Where the national courts must or may raise of their own motion points of law based on binding rules of national law, they must do so in relation to a binding rule of EU law such as that which requires that the national courts and authorities refuse entitlement to the right to deduct value added tax where it is established, in the light of objective evidence, that that right is being relied on for fraudulent or abusive ends. It is incumbent on those courts, in the assessment of whether that right to deduct was relied on for fraudulent or abusive ends, to interpret the national law, so far as possible, in the light of the wording and the purpose of Directive 2006/112, in order to achieve the result sought by*

that directive, which requires that they do whatever lies within their jurisdiction, taking the whole body of domestic law into consideration and applying the interpretative methods recognised by that law.

3. *Directive 2006/112, by requiring in particular, pursuant to Article 242 thereof, that any taxable person keep accounts in sufficient detail to allow the value added tax to be applied and its application checked by the tax authorities, must be interpreted as not precluding the Member State concerned, within the limits provided for in Article 273 of that directive, from requiring that any taxable person observe in that regard all the national accounting rules consistent with international accounting standards, provided that the measures adopted to that effect do not go beyond what is necessary to attain the objectives of ensuring the correct levying and collection of the tax and preventing tax evasion. In that regard, Directive 2006/112 precludes a national provision according to which a service is deemed to have been supplied at the time when the conditions governing recognition of the revenue arising from that service are satisfied.*

([1]) OJ C 79, 16.3.2013.

Judgment of the Court (Third Chamber Chamber) of 13 February 2014 — Hungary v European Commission, Slovak Republic

(Case C-31/13 P) ([1])

(Appeal — Protected geographical indications — Regulation (EC) No 1234/2007 — Register of protected designations of origin and protected geographical indications for wine — E-Bacchus database — Tokaj)

(2014/C 93/26)

Language of the case: Hungarian

Parties

Appellant: Hungary (represented by: M.Z. Fehér and K. Szíjjártó, Agents)

Other parties to the proceedings: European Commission (represented by: V. Bottka, B. Schima and B. Eggers, Agents), Slovak Republic (represented by B. Ricziová, Agent)

Re:

Appeal against the judgment of the General Court (Seventh Chamber) of 8 November 2012 in Case T-194/10 *Hungary* v *Commission*, in which the General Court dismissed as inadmissible an application for cancellation of the entry of the protected designation of origin 'Vinohradnícka oblast' Tokaj', with Slovakia indicated as country of origin, in the electronic register of protected designations of origin and protected geographical indications for wine (E-Bacchus database) — Legal effects of an entry in the E-Bacchus database — Obligation to state reasons — Principles of sound administration, sincere cooperation and legal certainty.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Hungary to pay the costs;*

3. *Orders the Slovak Republic to bear its own costs.*

([1]) OJ C 71, 9.3.2013.

Judgment of the Court (Second Chamber) of 13 February 2014 (request for a preliminary ruling from the Tribunale civile di Roma (Italy)) — Mediaset SpA v Ministero dello Sviluppo economico

(Case C-69/13) ([1])

(Request for a preliminary ruling — State aid — Subsidised purchase or renting of digital decoders — Commission decision declaring an aid scheme unlawful and incompatible with the internal market — Recovery — Quantification of the amount to be recovered — Role of the national court — Taking into consideration by the national court of the positions of the Commission in the enforcement of its decision — Principle of cooperation in good faith)

(2014/C 93/27)

Language of the case: Italian

Referring court

Tribunale civile di Roma

Parties to the main proceedings

Applicant: Mediaset SpA

Defendant: Ministero dello Sviluppo economico

Re:

Request for a preliminary ruling — Tribunale civile di Roma — Recovery of unlawful State aid — Quantification of the amount to be recovered — Commission decision laying down criteria for determining that amount — Judgment of the Court recognising that the national court has the power to assess whether the criteria laid down by the Commission are appropriate — Extent of the national court's discretion.