

Judgment of the Court (Fourth Chamber) of 13 March 2014 (request for a preliminary ruling from the Commissione tributaria regionale di Venezia-Mestre — Italy) — Società Italiana Commercio e Servizi srl (SICES), in liquidation, Agrima KG D. Gritsch Herbert & Gritsch Michael & Co., Agricola Lusía srl, Romagnoli Fratelli SpA, Agrimediterranea srl, Parini Francesco, Duoccio srl, Centro di Assistenza Doganale Triveneto Service srl, Novafruit srl, Evergreen Fruit Promotion srl v Agenzia Dogane Ufficio delle Dogane di Venezia

(Case C-155/13) ⁽¹⁾

(Agriculture — Regulation (EC) No 341/2007 — Article 6(4) — Tariff quotas — Garlic of Chinese origin — Import licences — Non-transferable nature of rights deriving from certain import licences — Circumvention — Abuse of rights)

(2014/C 135/17)

Language of the case: Italian

Referring court

Commissione tributaria regionale di Venezia-Mestre

Parties to the main proceedings

Applicants: Società Italiana Commercio e Servizi srl (SICES), in liquidation, Agrima KG D. Gritsch Herbert & Gritsch Michael & Co., Agricola Lusía srl, Romagnoli Fratelli SpA, Agrimediterranea srl, Parini Francesco, Duoccio srl, Centro di Assistenza Doganale Triveneto Service srl, Novafruit srl, Evergreen Fruit Promotion srl

Defendant: Agenzia Dogane Ufficio delle Dogane di Venezia

Re:

Request for a preliminary ruling — Commissione tributaria regionale di Venezia-Mestre — Interpretation of Article 6 of Commission Regulation (EC) No 341/2007 of 29 March 2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries (OJ 2007 L 90, p. 12) — Non-transferable nature of rights deriving from 'A' certificates — Companies holding import licences which purchased, before importation, Chinese garlic via a company which does not hold such licences and which resold the garlic in question, after payment of customs duties, to that company.

Operative part of the judgment

Article 6(4) of Commission Regulation (EC) No 341/2007 of 29 March 2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries must be interpreted as not precluding, in principle, transactions by which an importer, holding reduced rate import licences, purchases goods outside the European Union from an operator, itself a traditional importer within the meaning of Article 4(2) of that regulation, but having exhausted its own reduced rate import licences, then resells them to that operator after having imported them into the European Union. However, such transactions constitute an abuse of rights where they are artificially created with the essential aim of benefiting from the preferential rate of duty. The checking for abuse requires the referring court to take into account all the facts and circumstances of the case, including the commercial transactions preceding and following the import at issue.

⁽¹⁾ OJ C 178, 22.6.2013.