Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

13 February 2014*

(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)

In Case C-18/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Bulgaria), made by decision of 11 December 2012, received at the Court on 14 January 2013, in the proceedings

Maks Pen EOOD

v

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

THE COURT (Seventh Chamber),

composed of J.L. da Cruz Vilaça, President of the Chamber, G. Arestis and J.-C. Bonichot (Rapporteur), Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

— the Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia, formerly Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' Sofia, by A. Georgiev, acting as Agent,

— the Bulgarian Government, by E. Petranova and D. Drambozova, acting as Agents,

— the Greek Government, by K. Paraskevopoulou and M. Vergou, acting as Agents,

— the European Commission, by C. Soulay and D. Roussanov, acting as Agents,

* Language of the case: Bulgarian.

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 63, Article 178(a), subparagraph (6) of Article 226, and Articles 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).

2 The request has been made in proceedings between Maks Pen EOOD ('Maks Pen') and the Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia, formerly Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' Sofia (Director of the 'Appeals and Enforcement' Directorate, for Sofia, of the central office of the National Public Revenue Agency), regarding the refusal of the right to deduct value added tax ('VAT'), in the form of a tax credit, on invoices drawn up by some suppliers to Maks Pen.

Legal context

European Union law

3 Under Article 62 of Directive 2006/112:

'For the purposes of this Directive:

(1) "chargeable event" shall mean the occurrence by virtue of which the legal conditions necessary for VAT to become chargeable are fulfilled;

(2) VAT shall become "chargeable" when the tax authority becomes entitled under the law, at a given moment, to claim the tax from the person liable to pay, even though the time of payment may be deferred.'

4 Article 63 of that directive provides:

'The chargeable event shall occur and VAT shall become chargeable when the goods or the services are supplied.'

5 Article 167 of that directive provides:

'A right of deduction shall arise at the time the deductible tax becomes chargeable.'

6 Article 168 of that directive provides:

'In so far as the goods and services are used for the purposes of the taxed transactions of a taxable person, the taxable person shall be entitled, in the Member State in which he carries out these transactions, to deduct the following from the VAT which he is liable to pay:

(a) the VAT due or paid in that Member State in respect of supplies to him of goods or services, carried out or to be carried out by another taxable person;

...'

7 Under Article 178 of Directive 2006/112:

‘In order to exercise the right of deduction, a taxable person must meet the following conditions:

(a) for the purposes of deductions pursuant to Article 168(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Articles 220 to 236 and Articles 238, 239 and 240;

...’

8 Article 220(1) of Directive 2006/112, which is in Chapter 3, headed ‘Invoicing’, of Title XI thereof, provides that every taxable person is to ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of supplies of goods or services which he has made to another taxable person or to a non-taxable legal person.

9 Article 226 of Directive 2006/112 lists the only details which, without prejudice to the particular provisions laid down in that directive, are required for VAT purposes on invoices issued pursuant to Articles 220 and 221 of that directive.

10 Article 242 of that directive is worded as follows:

‘Every taxable person shall keep accounts in sufficient detail for VAT to be applied and its application checked by the tax authorities.’

11 Article 273 of the same directive provides:

‘Member States may impose other obligations which they deem necessary to ensure the correct collection of VAT and to prevent evasion, subject to the requirement of equal treatment as between domestic transactions and transactions carried out between Member States by taxable persons and provided that such obligations do not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

The option under the first paragraph may not be relied upon in order to impose additional invoicing obligations over and above those laid down in Chapter 3.’

Bulgarian law

12 In accordance with Article 70(5) of the Law on value added tax (Zakon za danak varhu dobavenata stoynost, ‘Law on VAT’), unlawfully invoiced VAT cannot be deducted.

13 Article 12 of the regulation implementing the Law on VAT is headed ‘Date on which the chargeable event takes place where there is a supply of goods or services’. Paragraph 1 of that article, in the version applicable to the dispute in the main proceedings, provides as follows:

‘... the service is considered to be supplied, within the meaning of the law, at the date on which the conditions for recognition of the revenue arising from that supply are satisfied in accordance with the Law on Accounting and the applicable accounting standards.’

14 Pursuant to Article 160(1), (2) and (5) of the Tax and Social Security Procedure Code (Danachno-osiguritelen protsesualen kodeks):

‘1. The court shall rule on the substance of the case and it may annul the amended notice in its entirety or in part, alter that notice or even dismiss the action.

2. The court shall assess whether the amended notice complies with the law and its validity by checking whether that notice was issued by a competent department, in the required form, and whether it complies with the substantive and procedural provisions.

...

5. A judicial decision cannot provide that an amended notice is to be altered to the detriment of the applicant.'

15 Article 17(1) of the Code of Civil Procedure (Grazhdanskiya protsesualen kodeks) provides as follows:

'The court shall rule on all the issues relevant to the outcome of the proceedings, apart from the issue of whether an offence has been committed.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

16 Maks Pen is a company registered under Bulgarian law which operates as a wholesaler of office supplies and advertising material.

17 The tax inspection to which it was subject in respect of the tax period from 1 January 2007 to 30 April 2009 inclusive led the tax authorities to contest the validity of the VAT deduction made on the basis of the tax included in the invoices of seven of its suppliers.

18 In respect of some of the suppliers themselves, or their sub-contractors, it was not possible to establish from the information requested of them during that inspection that they had the necessary resources to have made the supplies invoiced. Taking the view that either it was not proven, in respect of some of the sub-contractors, that the transactions in question had actually been carried out, or that those transactions were not carried out by the service providers referred to on the invoices, the tax authorities drew up an amended tax assessment notice contesting the deductibility of the VAT included in the invoices of those seven undertakings.

19 Maks Pen challenged that amended notice before the Direktor na Direktsia 'Obzhalvane i upravlenie na izpalnenieto' Sofia, then before the referring court, submitting that it possessed invoices and contractual documents in due form, that those invoices had been paid by bank transfer, that they were registered in the accounting records of the suppliers, that those suppliers had declared the VAT relating to those invoices, that there was therefore evidence that the supplies at issue had actually taken place and that, further, it was not disputed that Maks Pen itself had made supplies subsequent to the provision of those services.

20 The tax authorities submitted that it was not sufficient to hold invoices in due form to qualify for a right to deduct, where, in particular, the private documents presented in support of the invoices by the suppliers concerned were not reliably dated and had no probative value, and the sub-contractors had not declared the workers whose services they had used or the services supplied. Before the referring court, the tax authorities relied on new evidence, first, by challenging the validity of the signature of representatives of two of the suppliers and, secondly, by pointing out that one of them had not included in its accounting records or in its tax returns the invoices of one of the sub-contractors whose services it had used. While the tax authorities conceded that the services invoiced had been supplied to Maks Pen, they submitted that those services were not however provided by the suppliers mentioned in those invoices.

21 In those circumstances the Administrativen sad Sofia-grad decided to stay the proceedings and to refer to the Court the following questions for a preliminary ruling:

‘(1) Are circumstances of fact in which the service provider named on the invoice or its subcontractor do not have the personnel, equipment or assets that would be required to provide the service, the costs of actually providing the service are not documented and no such costs are entered in its accounts, and documents submitted as evidence of the consideration due and of provision of the service in respect of which a VAT invoice was issued and the right to deduct input tax was exercised, in the form of a contract and a record of acceptance and delivery, were false in so far as concerns the identification of the persons who signed them as the suppliers, to be treated as relating to “tax evasion” for the purposes of the right of deduction under European Union law?

(2) Does it follow from the obligation incumbent on a court under European Union law and the case-law of the Court of Justice … to refuse the right to deduct input tax in the case of tax evasion that a national court also has a duty to establish the existence of tax evasion of its own motion, in circumstances such as those at issue in the main proceedings, to the extent that - taking into account its obligations under national law to give a ruling on the substance of the dispute, to comply with the prohibition on altering the position of the claimant, to observe the principles of the rights of the defence and legal certainty and to apply the relevant legal provisions of its own motion - it must assess new facts put before it for the first time, as well as all evidence, including that relating to fictitious transactions, false documents and documents the contents of which are inaccurate?

(3) In the context of the obligation of the court to refuse the right to deduct input tax in the event of tax evasion, does it follow from Article 178(a) of … Directive 2006/112 … that the service must actually have been provided by the service provider named on the invoice or its subcontractor in order for the right of deduction to be exercised?

(4) Does the requirement under Article 242 of Directive 2006/112 to keep detailed accounts for the purposes of verification of the right to deduct input tax mean that the corresponding accounting legislation of the Member State in question, which provides for consistency with the international accounting standards applicable under European Union law, must also be observed, or does it refer only to the requirement to keep the VAT accounting documents prescribed in that directive: invoices, VAT returns and recapitulative statements?

In the event that the second alternative is correct:

Does it follow, from the requirement in subparagraph (6) of Article 226 of Directive 2006/112 that invoices must state the “extent and nature of the services rendered”, that, when services are provided, invoices or a document issued in connection with them must contain details of the actual provision of the service, that is to say objective, verifiable facts that serve as proof both that the service was in fact provided and that it was rendered by the service provider named on the invoice?

(5) Is Article 242 of Directive 2006/112, which lays down the requirement to keep detailed accounts for the purposes of checking the right to deduct input tax, in conjunction with Article 63 and Article 273 of that directive, to be interpreted as precluding a national provision under which a service is deemed to have been provided at the time when the conditions governing recognition of revenue arising from that service are satisfied in accordance with the relevant accounting legislation, which provides for consistency with the international accounting standards applicable under European Union law and the principles of documented evidence for business transactions, the precedence of substance over form and the comparability of revenue and costs?’

Consideration of the questions referred

The first and third questions

22 By its first and third questions, which can be examined together, the referring court asks, in essence, whether Directive 2006/112 must be interpreted as precluding a taxable person from deducting VAT on 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 supplying the service in their accounts and the identification of persons signing certain documents as suppliers was shown to be inaccurate.

23 It should be borne in mind that, according to settled case-law, the right of taxable persons to deduct VAT due or already paid on goods purchased and services received as inputs from the VAT which they are liable to pay is a fundamental principle of the common system of VAT established by the relevant European Union legislation (see Case C-285/11 *Bonik* [2012] ECR, paragraph 25 and the case-law cited).

24 In that regard, the Court has consistently held that the right of deduction provided for in Article 167 et seq. of Directive 2006/112 is an integral part of the VAT scheme and in principle may not be limited. In particular, the right of deduction is exercisable immediately in respect of all the taxes charged on transactions relating to inputs (see *Bonik*, paragraph 26 and the case-law cited).

25 In addition, it is apparent from the wording of Article 168(a) of Directive 2006/112 that, in order to have a right of deduction, it is necessary, first, that the interested party be a taxable person within the meaning of that directive and, second, that the goods or services relied on to give entitlement to that right be used by the taxable person for the purposes of his own taxed output transactions, and that, as inputs, those goods or services must be supplied by another taxable person (see *Bonik*, paragraph 29 and the case-law cited). Where those conditions are fulfilled, entitlement to deduction cannot in principle be refused.

26 That said, it must be borne in mind that the prevention of tax evasion, tax avoidance and abuse is an objective recognised and encouraged by Directive 2006/112. In that connection, the Court has held that European Union law cannot be relied on for abusive or fraudulent ends. It is therefore for the national courts and authorities to refuse the right of deduction, if it is shown, in the light of objective evidence, that that right is being relied on for fraudulent or abusive ends (see *Bonik*, paragraphs 35 to 37 and the case-law cited).

27 While that is the position where tax evasion is committed by the taxable person himself, the same is also true where a taxable person knew, or should have known, that, by his acquisition, he was taking part in a transaction connected with the evasion of VAT. He must therefore, for the purposes of Directive 2006/112, be regarded as a participant in that evasion, whether or not he profits from the resale of the goods or the use of the services in the context of the taxable transactions subsequently carried out by him (see *Bonik*, paragraphs 38 to 39 and the case-law cited).

28 Accordingly, a taxable person cannot be refused the right of deduction unless it is established on the basis of objective evidence that that taxable person – to whom the supply of goods or services, on the basis of which the right of deduction is claimed, was made – knew or should have known that, through the acquisition of those goods or services, he was participating in a transaction connected with the evasion of VAT committed by the supplier or by another trader acting upstream or downstream in the chain of supply of those goods or services (see *Bonik*, paragraph 40 and the case-law cited).

29 Since the refusal of the right of deduction is an exception to the application of the fundamental principle constituted by that right, it is incumbent upon the competent tax authorities to establish, to the requisite legal standard, that the objective evidence to which the preceding paragraph of this judgment refers is present. It is for the national courts subsequently to determine whether the tax authorities concerned have established the existence of such objective evidence (see, to that effect, *Bonik*, paragraphs 43 and 44).

30 It should be borne in mind in that regard that, in proceedings brought under Article 267 TFEU, the Court has no jurisdiction to check or to assess the factual circumstances of the case in the main proceedings. In the main proceedings, it is therefore for the referring court to carry out, in accordance with the rules of evidence under national law, an overall assessment of all the evidence and factual circumstances of those proceedings in order to determine, in the light of the objective evidence provided by the tax authorities, whether Maks Pen knew or should have known that a transaction relied on to give entitlement to the right to deduct was connected with tax evasion committed by its suppliers.

31 In that regard, if it were simply to be the case that, in the main proceedings, a supply made to Maks Pen was not actually made by the supplier mentioned on the invoices 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 suppliers was shown to be inaccurate, that would not, in itself, be sufficient ground to exclude the right to deduct relied on by Maks Pen.

32 In those circumstances, the answer to the first and third questions is that Directive 2006/112 must be interpreted as precluding a taxable person from deducting the VAT included in the invoices issued by a supplier where, although the supply was made, it is apparent that the supply 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 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.

The second question

33 By its second question, the referring court asks, in essence, whether European Union law requires that that court establish the existence of tax evasion of its own motion in circumstances such as those of the case in the main proceedings, on the basis of new facts relied on for the first time before it by the tax authorities and on all the evidence, even though, by carrying out such an examination, it would fail to comply with obligations imposed on it by the applicable national law.

34 As observed in paragraph 26 above, European Union law requires of the national courts and authorities that they refuse entitlement to the right to deduct where it is established, in the light of objective evidence, that that right is being relied on for fraudulent or abusive ends. Moreover, even though European Union law is not relied upon by the parties, the national court must raise of its own motion points of law based on binding European Union law rules where, under national law, the national courts must or may do so in relation to a binding rule of national law (see, to that effect, Case C-2/06 *Kempter* [2008] ECR I-411, paragraph 45 and the case-law cited).

35 Therefore, although, as the referring court itself states at paragraph 72 of its request for a preliminary ruling, it is apparent from Article 160(2) of the Tax and Social Security Procedure Code that that court is required to determine whether there is tax evasion when it examines of its own motion whether the

amended tax notice contesting the VAT deduction made by the taxable person is in conformity with national law, it must also raise of its own motion the requirement of European Union law referred to in the preceding paragraph of this judgment, in accordance with the objective of Directive 2006/112 of preventing any tax evasion, tax avoidance and abuse.

36 It must be recalled, in this connection, that it is for the national court to interpret the national law, so far as possible, in the light of the wording and the purpose of the directive concerned in order to achieve the result sought by the directive, which requires that it does whatever lies within its jurisdiction, taking the whole body of domestic law into consideration and applying the interpretative methods recognised by that law (see, to that effect, Case C-212/04 *Adeneler and Others* [2006] ECR I-6057, paragraph 111). It is therefore for the national court to ascertain whether the rules of national law on which it is relying and which, in its view, might be contrary to the requirements of European Union law, can be interpreted in accordance with the objective of preventing tax evasion on which those requirements are based.

37 In this respect, admittedly, European Union law cannot oblige a national court to apply European Union legislation of its own motion where this would have the effect of disregarding the principle, enshrined in its national procedural law, of the prohibition of *reformatio in peius* (Case C-455/06 *Heemskerk and Schaap* [2008] ECR I-8763, paragraph 46). However, it is not obvious, in any event, that, in a dispute such as that in the main proceedings which, from its origin, concerns the right to deduct the VAT included in a number of specific invoices, such a prohibition can apply to the submission by the tax authorities during court proceedings of new evidence which, concerning those same invoices, cannot be regarded as adversely affecting the situation of the taxable person who is relying on that right to deduct.

38 Moreover, even if a rule of national law were to classify the tax evasion as a criminal offence, where only a criminal court could make that classification, it is not obvious that such a rule would preclude the court responsible for assessing the legality of an amended tax notice which contests the VAT deduction made by a taxable person from being able to rely on objective evidence submitted by the tax authorities to establish the existence, in the particular case, of tax evasion, where, pursuant to another provision of national law, such as Article 70(5) of the Law on VAT, VAT which is 'unlawfully invoiced' cannot be deducted.

39 Accordingly, the answer to the second question is that, 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 European Union law such as that which requires that national courts and authorities refuse entitlement to the right to deduct VAT 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.

The fourth and fifth questions

40 By its fourth and fifth questions, which can be examined together, the referring court asks, in essence, whether Directive 2006/112, by requiring in particular, pursuant to Article 242 thereof, that any taxable person keep accounts in sufficient detail to allow VAT to be applied and its application checked by the tax authorities, must be interpreted as not precluding the Member State concerned from requiring that any taxable person observe in that regard all the national accounting rules consistent with international

accounting standards, including a provision of national law 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.

41 Under the common system of VAT, Member States are required to ensure compliance with the obligations to which taxable persons are subject and they enjoy in that respect a certain measure of latitude, inter alia, as to how they use the means at their disposal. Among those obligations, Article 242 of Directive 2006/112 provides, inter alia, that every taxable person is to keep accounts in sufficient detail to permit VAT to be applied and its application checked by the tax authority (see, to that effect, Case C-188/09 *Profaktor Kulesza Frankowski, Jóźwiak, Orłowski* [2010] ECR I-7639, paragraphs 22 and 23).

42 In addition, pursuant to the first paragraph of Article 273 of Directive 2006/112, Member States may impose other obligations which they deem necessary to ensure the correct collection of VAT and to prevent evasion. That option, which can only be made use of provided it does not affect trade between Member States, may not, furthermore, as stated in the second paragraph of that article, be relied upon in order to impose additional obligations over and above those laid down in that directive.

43 Moreover, that option cannot authorise the Member States to adopt measures which go further than is necessary to attain the objectives of ensuring the correct levying and collection of the tax and the prevention of tax evasion (*Profaktor Kulesza, Frankowski, Jóźwiak, Orłowski*, paragraph 26).

44 Provided that they comply with those limits, European Union law does not preclude additional national accounting rules which are established by reference to international accounting standards applicable within the European Union under the conditions provided for by Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ 2002 L 243, p. 1).

45 As regards the issue of whether those national accounting rules may provide that 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, it must be held that the effect of that rule would be to render VAT chargeable in respect of such a supply only once the costs incurred by the supplier or its sub-contractor have been entered in the accounts of those traders.

46 It must be recalled that, under Article 167 of Directive 2006/112, a right of deduction arises at the time the tax becomes chargeable and that, under Article 63 of that directive, VAT becomes chargeable when the services are supplied. Therefore, subject to the specific situations referred to in Articles 64 and 65 of that directive, which are not at issue in the main proceedings, the time when the tax becomes chargeable, and thus deductible for the taxable person, cannot be determined, generally, by the completion of formalities such as the entering, in the supplier's accounts, of the costs borne by them in respect of the supply of their services.

47 Further, any failure by the service provider to complete certain accounting requirements cannot call in question the right of deduction to which the recipient of services supplied is entitled in respect of the VAT paid for those services, where the invoices relating to the services supplied contain all the information required by Article 226 of Directive 2006/112 (see, to that effect, Case C-324/11 *Tóth* [2012] ECR, paragraph 32).

48 Having regard to the foregoing, the answer to the fourth and fifth questions is that Directive 2006/112, by requiring in particular, pursuant to Article 242 thereof, that any taxable person keep accounts in sufficient detail to allow the VAT 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 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.

Costs

49 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

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 European Union 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.**

[Signatures]