Judgment of the Court (Seventh Chamber) of 9 July 2015 (request for a preliminary ruling from the Curtea de Apel Cluj — Romania) — Radu Florin Salomie, Nicolae Vasile Oltean v Direcția Generală a Finanțelor Publice Cluj

(Case C-183/14) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Articles 167, 168, 179 and 213 — Reclassification by the national tax authority of a transaction as an economic activity subject to VAT — Principle of legal certainty — Principle of protection of legitimate expectations — National legislation making the exercise of the right of deduction subject to the identification of the trader concerned for VAT purposes and to the filing of a tax return in respect of that tax)

(2015/C 294/12)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Appellants: Radu Florin Salomie, Nicolae Vasile Oltean

Respondent: Direcția Generală a Finanțelor Publice Cluj

Operative part of the judgment

1. *The principles of legal certainty and of the protection of legitimate expectations do not preclude, in circumstances such as those of the dispute in the main proceedings, a national tax authority from deciding, following a tax audit, to subject transactions to value added tax and to impose the payment of surcharges, provided that that decision is based on clear and precise rules and that that authority's practice has not been such as to give rise, in the mind of a prudent and well-informed trader, to a reasonable expectation that that tax would not be levied on such transactions, this being a matter for the referring court to determine. The surcharges applied in such circumstances must comply with the principle of proportionality.*

2. *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax precludes, in circumstances such as those of the dispute in the main proceedings, national rules under which the right to deduct input value added tax, due or paid on goods and services used in the context of taxed transactions, is refused to the taxable person, who must nevertheless pay the tax that he ought to have recovered, for the sole reason that he was not identified for value-added-tax purposes when he carried out those transactions, so long as he has not been duly identified for value-added-tax purposes and the tax return for the tax due has not been filed.*

([1]) OJ C 253, 4.8.2014.

Judgment of the Court (Second Chamber) of 2 July 2015 (request for a preliminary ruling from the Vrhovno sodišče — Slovenia) — NLB Leasing d.o.o. v Republika Slovenija

(Case C-209/14) ([1])

(Reference for a preliminary ruling — VAT — Directive 2006/112/EC — Supply of goods or services — Lease agreement — Return of immovable property that is the subject-matter of a lease agreement to the lessor — Concept of 'cancellation, refusal or total or partial non-payment' — Lessor's right to a reduction of the taxable amount — Double taxation — Separate supplies — Principle of fiscal neutrality)

(2015/C 294/13)

Language of the case: Slovenian

Referring court

Vrhovno sodišče

Parties to the main proceedings

Appellant: NLB Leasing d.o.o.

Respondent: Republika Slovenija

Operative part of the judgment

1. *Articles 2(1), 14 and 24(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that where a lease agreement relating to immovable property provides either that ownership of that property is to be transferred to the lessee on the expiry of that agreement or that all the essential powers attaching to ownership of that property are to be enjoyed by the lessee and, in particular, substantially all the rewards and risks incidental to legal ownership of that property are transferred to the lessee and the present value of the amount of the lease payments is practically identical to the market value of the property, the transaction resulting from that agreement must be treated as an acquisition of capital goods.*

2. *Article 90(1) of Directive 2006/112 must be interpreted as not permitting a taxable person to reduce the taxable amount where that person has in fact received all the payments in consideration for the service which he supplied or where, without the agreement having been refused or cancelled, the recipient of that service is no longer liable to the taxable person for the agreed price.*

3. *The principle of fiscal neutrality must be interpreted as not precluding, first, a leasing service relating to immovable property and, second, the sale of that property to a person who is a third party to the lease agreement, being taxed separately for value added tax purposes, where those transactions cannot be regarded as forming a single supply, which is a matter for the referring court to determine.*

([1]) OJ C 202, 30.6.2014.

Judgment of the Court (First Chamber) of 9 July 2015 (request for a preliminary ruling from the Arbeitsgericht Verden (Germany)) — Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH

(Case C-229/14) ([1])

(Reference for a preliminary ruling — Directive 98/59/EC — Article 1(1)(a) — Collective redundancies — Concept of 'worker' — Member of the board of directors of a limited liability company — Person working under a scheme for training and reintegration into the labour market and benefitting from a public training grant but not receiving remuneration from the employer)

(2015/C 294/14)

Language of the case: German

Referring court

Arbeitsgericht Verden

Parties to the main proceedings

Applicant: Ender Balkaya

Defendant: Kiesel Abbruch- und Recycling Technik GmbH