



Reports of Cases

Case C-499/14

VAD BVBA

and

Johannes Josephus Maria van Aert

v

Belgische Staat

(Request for a preliminary ruling from the Hof van Cassatie)

(Reference for a preliminary ruling — Customs Union and Common Customs Tariff —
Tariff classification — Combined Nomenclature — Interpretation — General Rules — Rule 3(b) —
Definition of ‘goods put up in sets for retail sale’ — Separate packages)

Summary — Judgment of the Court (First Chamber), 10 March 2016

1. *Customs union — Common Customs Tariff — Tariff headings — Interpretation — Explanatory notes to the combined nomenclature — Explanatory Notes of the World Customs Organisation — No binding force*

(Council Regulation No 2658/87, as amended by Regulation No 1214/2007, Annex I)

2. *Customs union — Common Customs Tariff — Classification of goods — ‘Sets’ within the meaning of Rule 3(b) of the General Rules for the interpretation of the Combined Nomenclature — Definition — Goods presented for customs clearance in separate packages and packed together afterwards — Included — Conditions — Verification by the national court*

(Council Regulation No 2658/87, as amended by Regulation No 1214/2007, Annex I, Rule 3(b))

3. *Customs union — Common Customs Tariff — Tariff headings — Classification of goods — Criteria — Characteristics and objective properties*

(Council Regulation No 2658/87, as amended by Regulation No 1214/2007, Annex I)

1. See the text of the decision.

(see paras 33, 34)

2. Rule 3(b) of the General Rules for the interpretation of the Combined Nomenclature in Annex I to Regulation No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Regulation No 1214/2007, must be interpreted as meaning that goods which are presented for customs clearance in separate packages and are packed together only after that transaction may nevertheless be held to be ‘goods put up in sets for retail sale’, within the meaning of

that rule and may, therefore, come under a single tariff heading, where it is established, having regard to other objective factors, which it is for the national court to assess, that the goods belong together as a unit and are intended to be presented as such in the retail trade.

In the first place, it is not apparent from the wording of Rule 3(b) of the General Rules or from the explanatory notes of the Harmonised Commodity Description and Coding System or the Guidelines on the classification in the Combined Nomenclature of goods put up in sets for retail sale, the latter laying down certain exceptions to the requirement that there must be a single package, that the concept of a 'set', within the meaning of that rule, necessarily presupposes, in every case, that the goods concerned are presented within the same package for the purposes of customs clearance.

In the second place, the concept of a 'set' within the meaning of that rule presupposes that the goods are closely linked, from the perspective of how they are marketed, such that they are not only presented together for customs clearance but are also normally supplied together, at the various marketing stages and in particular at the retail stage, as a unit in a single package in order to meet a particular need or to carry out a specific activity.

Thus, the goods being in a single package, at the time of their presentation to customs, does not constitute a condition *sine qua non* in order to consider that they belong together as a unit and hence constitute a 'set', within the meaning of Rule 3(b) of the General Rules, but merely evidence that allows the inference of such a finding.

(see paras 35, 36, 38, 45, operative part)

3. See the text of the decision.

(see paras 40)