Judgment of the Court (First Chamber) of 22 February 2018 (request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije — Slovenia) — T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (in insolvency) v Republika Slovenija

(Case C-396/16) [1]

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Articles 184 and 185 — Adjustment of the deduction of input tax paid — Change in the factors used to determine the amount to be deducted — Notion of 'transactions remaining totally or partially unpaid' — Effect of a decision approving an arrangement with creditors having the force of res judicata)

(2018/C 134/08)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: T — 2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o. (in insolvency)

Defendant: Republika Slovenija

Operative part of the judgment

1. *Article 185(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted to the effect that the reduction of a debtor's obligations resulting from the final approval of an arrangement with creditors constitutes a change in the factors used to determine the amount to be deducted, for the purposes of that provision.*

2. *The first subparagraph of Article 185(2) of Directive 2006/112 must be interpreted to the effect that the reduction of a debtor's obligations resulting from the final approval of an arrangement with creditors does not constitute a case of a transaction remaining totally or partially unpaid that does not give rise to an adjustment of the initial deduction, where that reduction is definitive, although that is a matter for the referring court to determine.*

3. *The second subparagraph of Article 185(2) of Directive 2006/112 must be interpreted to the effect that, in order to implement the option provided for in that provision, a Member State is not required to make express provision for an obligation to adjust the deductions in the case of transactions remaining totally or partially unpaid.*

[1] OJ C 335, 12.9.2016.

Judgment of the Court (First Chamber) of 22 February 2018 (requests for a preliminary ruling from the Hoge raad der Nederlanden — Netherlands) — X BV (C-398/16), X NV (C-399/16) v Staatssecretaris van Financiën

(Joined Cases C-398/16 and C-399/16) [1]

(Reference for a preliminary ruling — Articles 49 and 54 TFEU — Freedom of establishment — Tax legislation — Corporation tax — Advantages linked to the formation of a single tax entity — Exclusion of cross-border groups)

(2018/C 134/09)

Language of the case: Dutch

Referring court

Hoge raad der Nederlanden

Parties to the main proceedings

Applicants: X BV (C-398/16), X NV (C-399/16)

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

1. *Articles 49 and 54 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, pursuant to which a parent company established in a Member State is not allowed to deduct interest in respect of a loan taken out with a related company in order to finance a capital contribution to a subsidiary established in another Member State, whereas if the subsidiary were established in the same Member State, the parent company could avail itself of that deduction by forming a tax-integrated entity with it.*

2. *Articles 49 and 54 TFEU must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, pursuant to which a parent company established in a Member State is not allowed to deduct from its profits capital losses derived from fluctuations in the exchange rate, in connection with the value of its shares in a subsidiary established in another Member State, where the same legislation does not provide, symmetrically, for tax to be levied on capital gains derived from those fluctuations.*

(1) OJ C 371, 10.10.2016.

Judgment of the Court (Sixth Chamber) of 22 February 2018 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Kubota (UK) Limited, EP Barrus Limited v Commissioners for her Majesty's Revenue & Customs

(Case C-545/16) (1)

(Reference for a preliminary ruling — Common Customs Tariff — Tariff headings — Motor vehicles for the transport of goods — Subheadings 8704 10 10 and 8704 21 91 — Regulation (EU) 2015/221 — Validity)

(2018/C 134/10)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Kubota (UK) Limited, EP Barrus Limited

Defendant: Commissioners for her Majesty's Revenue & Customs

Operative part of the judgment

The examination of the questions referred has disclosed no factor capable of affecting the validity of Commission Implementing Regulation (EU) 2015/221 of 10 February 2015 concerning the classification of certain goods in the Combined Nomenclature.

(1) OJ C 14, 16.1.2017.