



Reports of Cases

Case C-672/17

Tratave — Tratamento de Águas Residuais do Ave SA
v
Autoridade Tributária e Aduaneira

(Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD))

(Reference for a preliminary ruling — Value added tax (VAT) — Taxable amount — Reduction — Principle of fiscal neutrality)

Summary — Judgment of the Court (Sixth Chamber), 6 December 2018

Harmonisation of fiscal legislation — Common system of value added tax — Taxable amount — Reduction in the case of total or partial non-payment — National measures derogating therefrom — National legislation which makes the reduction of the taxable amount contingent on the taxable person giving prior notice of its intention to cancel the tax for the purposes of correcting the deduction of tax that the latter has made — Admissibility, also under the principle of fiscal neutrality

(Council Directive 2006/112, Arts 90 and 273)

The principle of neutrality as well as Articles 90 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which provides that the reduction of the taxable amount for value added tax (VAT), in the event of non-payment, cannot be made by the taxable person until it has given prior notice of its intention to cancel all or part of the VAT to the purchaser of goods or services, if that purchaser is a taxable person, for the purposes of correcting the deduction of VAT that the latter has made.

With respect to the principles of fiscal neutrality and proportionality, it must be observed that this requirement, which enables the debtor to be informed of the fact that he must adjust the VAT amount, which he may have been able to deduct as input tax, is likely to contribute not only to ensuring the correct collection of VAT and the avoidance of tax evasion but also to eliminating the risk of loss of tax revenue (see, by analogy, judgment of 26 January 2012, *Kraft Foods Polska*, C-588/10, EU:C:2012:40, paragraphs 32 and 33).

(see paras 36, 42, operative part)