

Other party to the proceedings: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders FV to bear his own costs and to pay those incurred by the Council of the European Union.

⁽¹⁾ OJ C 77, 09.03.2020.

Judgment of the Court (Ninth Chamber) of 15 April 2021 (request for a preliminary ruling from the Wojewódzki Sąd Administracyjny we Wrocławiu — Poland) — Grupa Warzywna sp. z o.o. v Dyrektor Izby Administracji Skarbowej we Wrocławiu

(Case C-935/19) ⁽¹⁾

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 273 — Overstatement in the tax return of the amount of the refund of VAT — Error of assessment by the taxable person concerning the taxable nature of a transaction — Correction of the tax return following an audit — Penalty of an amount equal to 20 % of the overstated VAT reimbursement — Principle of proportionality)

(2021/C 217/19)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny we Wrocławiu

Parties to the main proceedings

Applicant: Grupa Warzywna sp. z o.o.

Defendant: Dyrektor Izby Administracji Skarbowej we Wrocławiu

Operative part of the judgment

Article 273 of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and the principle of proportionality must be interpreted as meaning that they preclude a national law which imposes on a taxable person, who wrongly classified a transaction that is exempt from VAT as a transaction which is subject to that tax, an additional tax liability equal to 20 % of the amount of the overstated VAT reimbursement that was wrongly claimed, where that sanction applies without distinction to a situation where the irregularity is the result of an error of assessment made by the parties to the transaction regarding the taxable nature of that transaction, which is characterised by the lack of evidence of evasion and of losses of revenues for the State Treasury, and to a situation where such specific circumstances do not exist.

⁽¹⁾ OJ C 191, 8.6.2020.