

Order of the Court (Tenth Chamber) of 3 September 2021 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Amoena Ltd v Commissioners for Her Majesty's Revenue and Customs

(Case C-706/20) ⁽¹⁾

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Common Customs Tariff — Tariff classification — Combined Nomenclature — Headings 6212 and 9021 — Mastectomy bras — Implementing Regulation (EU) 2017/1167 — Notion of ‘accessories’ — Interpretation of the judgment of 19 December 2019, Amoena (C 677/18, EU:C:2019:1142))

(2021/C 471/17)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Amoena Ltd

Defendant: Commissioners for Her Majesty's Revenue and Customs

Operative part of the order

1. Paragraph 53 of the judgment of 19 December 2019, *Amoena* (C-677/18, EU:C:2019:1142), in the English-language version, must be interpreted as meaning that:
 - in the first sentence of that paragraph, the terms ‘them’ and ‘their’ refer to the breast forms and the term ‘they’ refers to the mastectomy bras;
 - in the second sentence of that paragraph, the term ‘their’ and the first two occurrences of the term ‘they’ refer to the mastectomy bras, whereas the last occurrence of the term ‘they’ refers to the breast forms.
2. In the second sentence of paragraph 53 of the judgment of 19 December 2019, *Amoena* (C-677/18, EU:C:2019:1142), the Court, in order to determine whether the mastectomy bras may be regarded as breast form ‘accessories’ for the purposes of Chapter 90 of the Combined Nomenclature, set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 merely applied the test defined in paragraph 51 of that judgment, according to which interchangeable parts or devices which enable a machine to perform a particular service relative to its main function must be classified as ‘accessories’ for the purposes of that chapter.

⁽¹⁾ OJ C 110, 29.3.2021.