



C/2024/1996

18.3.2024

Judgment of the Court (Eighth Chamber) of 30 January 2024 (Request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — P sp. z o.o. v Dyrektor Izby Administracji Skarbowej w Lublinie

(Case C-442/22, ⁽¹⁾ Dyrektor Izby Administracji Skarbowej w Lublinie (Fraud by an employee))

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 203 — Obligation to pay — Person who enters VAT on an invoice — Person liable to pay VAT — Fake invoices issued by an employee including the employer's details without its knowledge or consent — Employer due diligence)

(C/2024/1996)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: P sp. z o.o.

Respondent: Dyrektor Izby Administracji Skarbowej w Lublinie

interested party: Rzecznik Małych i Średnich Przedsiębiorców

Operative part of the judgment

Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that, where an employee of a taxable person for value added tax (VAT) purposes has issued a fake invoice showing VAT using the employer's identity as a taxable person, without that employer's knowledge or consent, that employee must be considered to be the person who enters the VAT, within the meaning of Article 203, unless that taxable person did not exercise the due diligence reasonably required to monitor the conduct of that employee.

⁽¹⁾ OJ C 380, 3.10.2022.