



C/2024/4557

29.7.2024

Judgment of the Court (Tenth Chamber) of 13 June 2024 (request for a preliminary ruling from the Tribunalul Argeș – Romania) – SC Adient Ltd & Co. KG v Agenția Națională de Administrare Fiscală, Agenția Națională de Administrare Fiscală – Direcția Generală Regională a Finanțelor Publice Ploiești – Administrația Județeană a Finanțelor Publice Argeș

(Case C-533/22, ⁽¹⁾ Adient)

(Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 44 – Implementing Regulation (EU) No 282/2011 – Article 11(1) – Place of supply of services – Concept of a ‘fixed establishment’ – Ability, in terms of human and technical resources, to receive and use the services for its own needs – Services for the manufacture of car seat covers performed by one company on behalf of another company, belonging to the same group and established in another Member State)

(C/2024/4557)

Language of the case: Romanian

Referring court

Tribunalul Argeș

Parties to the main proceedings

Applicant: SC Adient Ltd & Co. KG

Defendants: Agenția Națională de Administrare Fiscală, Agenția Națională de Administrare Fiscală – Direcția Generală Regională a Finanțelor Publice Ploiești – Administrația Județeană a Finanțelor Publice Argeș

Operative part of the judgment

1. Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2018/1695 of 6 November 2018, and Article 11(1) of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax

must be interpreted as meaning that a company subject to value added tax having its business in one Member State, which receives services provided by a company established in another Member State, cannot be regarded as having a fixed establishment in that other Member State, for the purposes of determining the place of supply of those services, solely because the two companies belong to the same group or those companies are bound as between themselves by a contract for the provision of services.

2. Article 44 of Directive 2006/112, as amended by Directive 2018/1695, and Article 11 of Implementing Regulation No 282/2011

must be interpreted as meaning that neither the fact that a company subject to value added tax (VAT) having its business in one Member State, which receives manufacturing services provided by a company established in another Member State, has in that other Member State a structure which intervenes in the supply of the finished products arising from those manufacturing services, nor the fact that those supply transactions are carried out mostly outside that Member State and that those that are carried out there are subject to VAT are relevant to establishing, for the purposes of determining the place of supply of services, that that company has a fixed establishment in that other Member State.

⁽¹⁾ OJ C 463, 5.12.2022.

3. Articles 44 and 192a of Directive 2006/112, as amended by Directive 2018/1695, and Articles 11 and 53 of Implementing Regulation No 282/2011

must be interpreted as meaning that a company subject to value added tax having its business in one Member State, which receives services provided by a company established in another Member State, does not have a fixed establishment in that other Member State if its technical and human resources in that Member State are not distinct from those by which the services are supplied to it or if those human and technical resources perform only preparatory or auxiliary activities.
