

Order of the Court of 1 June 2006 (reference for a preliminary ruling of *Gerechtshof te 's-Hertogenbosch* (Netherlands)) — *V.O.F. Dressuurstal Jespers v Inspecteur van de Belastingdienst/Zuidwest/kantoor Breda van de rijksbelastingdienst*

(Case C-233/05) ⁽¹⁾

(Sixth VAT Directive — Supplies under a contract to make up work — Concept of 'good produced' — Training of a horse — Whether or not tax is chargeable)

(2006/C 224/28)

Language of the case: Dutch

National court

Gerechtshof te 's-Hertogenbosch

Parties

Applicant: V.O.F. Dressuurstal Jespers

Defendant: Inspecteur van de Belastingdienst/Zuidwest/kantoor Breda van de rijksbelastingdienst

Re:

Reference for a preliminary ruling — *Gerechtshof te 's-Hertogenbosch* — Interpretation of Article 5(7)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member State relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Horse that has not been broken trained to make it suitable for a specific use — Horse trained for use as a riding horse capable, following training, of participating in competitions at a higher level — In both cases: new good produced? — Importance of a change which can be measured objectively in the horse and the attainment or non-attainment of the objective — Tax paid according to periodic declarations

Operative part of the order

1. Article 5(5)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member State relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 94/76/EC of 22 December 1994 by the introduction of transitional measures applicable, in the context of the enlargement of the European Union on 1 January 1995, as regards value added tax, is to be interpreted as meaning that there is no supply under a contract to make up work when a horse is trained to make it suitable for use as a riding horse or trained so as to make it capable of participating in (dressage) competitions and that a

horse, in such circumstances, cannot be regarded as being a good produced.

2. Whether or not value added tax is to be charged on amounts collected periodically as payment for the provision of services comprising the training of horses is to be determined according to the conditions laid down in Article 10(2) of the Sixth Directive.

⁽¹⁾ OJ C 205 of 20.8.2005.

Order of the Court of 3 June 2005 (Fourth Chamber) (reference for a preliminary ruling from the *Gerechtshof te 's-Hertogenbosch* — Netherlands) — *G.M. van de Coevering v Hoofd van het District Douane Roermond van de rijksbelastingdienst*

(Case C-242/05) ⁽¹⁾

(First subparagraph of Article 104(3) of the Rules of Procedure — Freedom to provide services — Leasing of a motor vehicle in a Member State other than the State of residence — Tax on non-registered vehicles which are made available to residents — Detailed rules for charging tax)

(2006/C 224/29)

Language of the case: Dutch

Referring court

Gerechtshof te 's-Hertogenbosch

Parties

Applicant: G.M. van de Coevering

Defendant: Hoofd van het District Douane Roermond van de rijksbelastingdienst

Re:

Reference for a preliminary ruling — *Gerechtshof te 's-Hertogenbosch* — Interpretation of Articles 49 EC to 55 EC — National legislation providing for the levy of a tax on vehicles registered in the territory and on vehicles not registered but made available to persons residing in that Member State — Motor vehicle hired in another State by a person residing in the State in which the tax is levied — Full tax levied with no account taken of the duration of the hire or use of the vehicle on the territory of that State