

Questions referred

- Question 1: Is it inconsistent with the provisions of Directive 77/388/EEC ⁽¹⁾ to levy import turnover tax for goods which have been reexported as non-Community goods for which, however, a customs debt is incurred due to a breach of obligation under Article 204 of the Customs Code ⁽²⁾ — in this case: delay in the fulfilment of the obligation to record the removal of the goods from a customs warehouse in the appropriate stock records, at the latest at the time of their removal?

In the event that Question 1 is answered in the negative:

- Question 2: Do the provisions of Directive 77/388/EEC require the levy of import turnover tax for the goods in such cases or do Member States have a margin of discretion in this respect?

and

- Question 3: Is a customs warehouse maintainer who, on the basis of a relationship involving the provision of services, stores a good from a third country in his customs warehouse without having that good at his disposal liable to pay import VAT, which is incurred as a result of his breach of obligation under the second subparagraph of Article 10(3) of Directive 77/388/EEC in conjunction with Article 204(1) of the Customs Code, even if the good is not used for the purposes of his taxable transactions within the meaning of Article 17(2)(a) of Directive 77/388/EEC?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, OJ 1977 L 145, p. 1.

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, OJ 1992 L 302, p. 1.

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 12 May 2014 — DHL Hub Leipzig GmbH v Hauptzollamt Braunschweig

(Case C-228/14)

(2014/C 303/09)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: DHL Hub Leipzig GmbH

Defendant: Hauptzollamt Braunschweig

Question referred

- Is import VAT for goods which have been reexported under customs supervision as non-Community goods for which, however, a customs debt is incurred due to a breach of obligation under Article 204 of the Customs Code ⁽¹⁾ — in this case: failure to discharge in due time the external Community transit procedure by presentation at the competent customs office before the introduction into the third country — to be considered to be not legally owed within the meaning of Article 236(1) of the Customs Code in conjunction with the provisions of Directive 2006/112/EC, ⁽²⁾ at least where the person used as the debtor is the person on whom the breached obligation was incumbent without him being entitled to dispose of the goods?

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, OJ 1992 L 302, p. 1.

⁽²⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ 2006 L 347, p. 1.