



Judgment of the Court (Sixth Chamber) of 25 April 2024 (request for a preliminary ruling from the Bundesfinanzhof – Germany) – Finanzamt X v Y KG

(Case C-207/23, ⁽¹⁾ Finanzamt X (Application and disposal of goods free of charge))

(Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Taxable transactions – Article 16 – Application of goods forming part of a taxable person’s business assets and their transfer free of charge to another taxable person – Drying of wood and heating of asparagus fields stemming from a cogeneration plant connected to a biogas production facility – Article 74 – Taxable amount – Cost price – Limitation to costs subject to input VAT only)

(C/2024/3576)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt X

Defendant: Y KG

Operative part of the judgment

1. The first paragraph of Article 16 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that the transfer free of charge of heat produced by a taxable person to other taxable persons for the purposes of their economic activities constitutes an application, by that first taxable person, of goods forming part of his business assets in the form of a disposal free of charge, within the meaning of that provision, that is to be treated as a supply of goods for consideration, and whether or not those other taxable persons use that heat for purposes giving them a right to deduct value added tax is irrelevant in that regard.

2. Article 74 of Directive 2006/112

must be interpreted as meaning that the cost price, within the meaning of that provision, includes not only direct manufacturing or production costs but also indirectly attributable costs, such as financing costs, whether or not those costs have been subject to input value added tax.

⁽¹⁾ OJ C 252, 17.7.2023.