

**Order of the Court (Fifth Chamber) of 6 February 2014 (reference for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Łodzi - Poland) – Marcin Jagiełło v Dyrektor Izby Skarbowej w Łodzi**

**(Case C-33/13) 1**

***(Request for a preliminary ruling – Article 99 of the Rules of Procedure of the Court of Justice – Taxation – VAT – Sixth Directive – Right of deduction – Refusal – Invoice issued by a company acting as a front)***

*Language of the case: Polish*

**Referring court**

Wojewódzki Sąd Administracyjny w Łodzi

**Parties to the main proceedings**

*Applicant:* Marcin Jagiełło

*Defendant:* Dyrektor Izby Skarbowej w Łodzi

**Re:**

Request for a preliminary ruling – Wojewódzki Sąd Administracyjny w Łodzi – Interpretation of Article 4(1) and (2), read in conjunction with Article 5(1), and of Article 17(2)(a) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation 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) – Right to deduct input VAT – Refusal to allow a recipient of supplies to deduct VAT in the case where the vendor uses the corporate name of another person – Intentional non-disclosure of the vendor's own activity – Invoice issued by a person other than the vendor – No need to establish that the purchaser was aware of the fact that the transaction in question was linked to criminal activity or to some other irregularity committed by the vendor or by the body cooperating with it

**Operative part of the order**

Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, as amended by Council Directive 2001/115/EC of 20 December 2001, must be interpreted as meaning that a taxable person may not be refused the right to deduct VAT due or paid in respect of goods supplied to him on the ground that, in view of fraud or irregularities committed by the issuer of the invoice for that supply, the supply is considered not to have actually been made by the issuer, unless it is established, on the basis of objective evidence and without requiring of the taxable person checks which are not his responsibility, that that taxable person knew, or should have known, that that supply was connected with VAT fraud – a matter which it is for the referring court to determine.

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1 OJ C 141, 18.05.2013