62017CJ0005
JUDGMENT OF THE COURT (Second Chamber)

25 July 2018 (*1)

(Reference for a preliminary ruling — Common system of value added tax — Directive 2006/112/EC — Exemption — Article 135(1)(d) — Transactions concerning payments and transfers — Concept — Scope — Dental payment plan by direct debit)

In Case C?5/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom), made by decision of 28 November 2016, received at the Court on 6 January 2017, in the proceedings

Commissioners for Her Majesty’s Revenue and Customs

v

DPAS Limited,

THE COURT (Second Chamber),

composed of M. Ileši?, President of the Chamber, A. Rosas, C. Toader, A. Prechal and E. Jaraši?nas (Rapporteur), Judges,

Advocate General: H. Saugmandsgaard Øe,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 24 January 2018,

after considering the observations submitted on behalf of:

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DPAS Limited, by J. Martindale, Solicitor, C. McDonnell, Barrister, and J. Walters QC,

–

the United Kingdom Government, by Z. Lavery and J. Kraehling, acting as Agents, and by S. Pritchard, Barrister, and K. Beal QC,

–

the European Commission, by L. Lozano Palacios and R. Lyal, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 21 March 2018,

gives the following

Judgment

1

This request for a preliminary ruling concerns the interpretation of Article 135(1)(d) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) (‘the VAT Directive’).

2

The request has been made in the course of proceedings between the Commissioners for Her Majesty’s Revenue and Customs (‘the tax authority’) and DPAS Limited concerning the refusal by the tax authority to exempt from value added tax (VAT) a supply of services made by DPAS.

Legal context

EU law

3

Article 2(1)(c) of the VAT Directive makes ‘the supply of services for consideration within the territory of a Member State by a taxable person acting as such’ subject to VAT.

4

Chapter 3 of Title IX of that directive, entitled ‘Exemptions’, contains Article 135(1)(b) to (g), which provides, in substantially identical terms, the exemptions previously provided for, respectively, in points 1 to 6 of Article 13B(d) 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) (‘the Sixth Directive’).

5

Under Article 135(1)(d) of the VAT Directive:

‘Member States shall exempt the following transactions:

…

(d)

transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection;

…’

United Kingdom law

6

Section 31(1) of the Value Added Tax Act 1994 provides that ‘a supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9’.

7

Schedule 9 refers to several groups of goods and services that qualify for exemption from VAT. Group 5 thereof covers finance. It provides for the exemption of the following services:

‘…

1.

The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.

…

5.

The provision of intermediary services in relation to any transaction comprised in item 1, 2, 3, 4 or 6 (whether or not any such transaction is finally concluded) by a person acting in an intermediary capacity.

…’

The dispute in the main proceedings and the questions referred for a preliminary ruling

8

DPAS, which is the acronym for ‘Dental Plan Administration Services’, designs, implements and manages dental plans in the United Kingdom. Those plans, provided by DPAS to dentists, are subsequently practice-branded by DPAS on behalf of the dentists to their patients.

9

According to the order for reference, the concept of a ‘dental plan’ refers, in the present case, to an arrangement between a dentist and his patient under which the dentist agrees to provide dental care to the patient, who agrees in return to pay a specified amount monthly, agreed between the dentist and his patient. That plan also includes other services, namely insurance cover for certain risks not covered by the plan and ‘payment administration services’ provided by DPAS.

10

Patients make monthly payments from their bank accounts to DPAS’s bank account by way of a direct debit mandate. According to the order for reference, the manner of implementation of the direct debit is ‘materially the same as that described in paragraphs 7 to 11 of the [judgment of 28 October 2010, AXA UK, C?175/09, EU:C:2010:646]’. Each of those payments includes the amount due from the patient to the dentist, the amount due from the patient to the insurer and the amount due from the patient to DPAS. Each month, DPAS pays to the dentists the aggregate amount payable to them in respect of all of their patients who have paid the agreed monthly amount, less, inter alia, an amount retained by DPAS as a charge for its services.

11

Until 1 January 2012, the contractual arrangements implementing the dental plans were concluded solely between DPAS and the dentists. The tax authority took the view that DPAS carried out transactions concerning payments and transfers which were exempt from VAT under Article

13B(d)(3) of the Sixth Directive, and subsequently under Article 135(l)(d) of the VAT Directive.

12

On 28 October 2010, the Court delivered its judgment in AXA UK (C?175/09, EU:C:2010:646) which concerns the liability to VAT of services provided by Denplan Ltd, a competitor of DPAS which also administers dental payment plans on behalf of dentists. In that judgment, the Court found that Denplan provided debt collection and factoring services within the meaning of Article 13B(d)(3) of the Sixth Directive, since the purpose of its services is to obtain payment of debts owed to Denplan's clients, namely dentists, and that, accordingly, those services could not benefit from the exemption laid down in that provision.

13

Following that judgment, DPAS restructured the contractual aspects of its dental plans with the intention of henceforth making, as from 1 January 2012, supplies of services not only to dentists but also to patients.

14

Thus, first, by letter of 8 September 2011 addressed to its dentist clients, DPAS informed them that, in order not to increase its prices as a consequence of the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646), it would be making certain 'purely administrative changes', without affecting the amounts charged to them or to their patients and without making any 'practical difference to the current arrangements'. It notified them that, to that end, the former contractual arrangements would be amended.

15

Before the planned amendment, those contractual arrangements consisted of a contract between DPAS and the dentist for the provision of dental payment plan services and a contract between DPAS, as insurance agent, and the patient for the provision of complementary insurance cover. The announced amendment consisted in splitting the first of those contracts into two separate contracts, namely, on the one hand, a contract between DPAS and the dentist for the provision of dental payment plan services, liable to VAT, and, on the other hand, a contract between DPAS and the patient for the provision of dental payment plan 'facilities'. DPAS stated that its charges would remain unchanged, as it would bear the VAT payable on the services supplied to the dentist, and that the other services would remain exempt from VAT.

16

The new general conditions applicable from 1 January 2012 and attached to that letter of 8 September 2011 stated, inter alia, that DPAS was not responsible for the failure or cancellation of the direct debit mandate.

17

Second, DPAS sent each of its dentist clients a letter on their headed notepaper to be sent to their patients who had taken out a dental plan. That letter stated in particular that, up to that time, the dental practice had paid an administration charge to DPAS which was deducted from the monthly direct debit payment made by the patient, that it had been agreed with DPAS to make some changes in the dental plan administrative arrangements and that, from that point on, it was proposed that part of the monthly amount paid by the patient to DPAS by direct debit would henceforth be retained by the latter 'in respect of its obligation to [the patient] to manage and

administer [its] dental plan payments, [its] supplementary insurance cover and dental emergency helpline’. It was emphasised that these were ‘purely administrative changes [which did not affect] the cover provided under the dental plan or the level of [the] total monthly payments’.

18

In that respect, each patient was requested to sign an acceptance form or, as the case may be, an authorisation form, stating that the patient agreed that DPAS would ‘manage and administer’ payments due under the dental plan and that the patient authorised DPAS to deduct, for that purpose, a monthly charge from the monthly payment agreed with the dentist.

19

By letter of 17 April 2012, the tax authority informed DPAS of its decision that the provision of services relating to the management of dental plans provided by DPAS since 1 January 2012 constituted either a single supply of services for dentists, subject to VAT at the standard rate, or a supply of services for dentists, subject to VAT at the standard rate, and a provision of services for patients, also subject to VAT at the standard rate.

20

DPAS challenged that decision before the First-tier Tribunal (Tax Chamber) (United Kingdom). Before that court, it contended that it supplied to dentists services subject to VAT at the standard rate and that it supplied to patients separate and VAT-exempt services. The tax authority maintained the position set out in that letter and, furthermore, claimed that the contractual arrangements effective from 1 January 2012 constituted an abusive practice within the meaning of the judgment of 21 February 2006, Halifax and Others (C?255/02, EU:C:2006:121).

21

By decision of 22 November 2013, that court held, inter alia, that DPAS supplied a service to patients in return for consideration, that this involved a transaction concerning payments which was exempt from VAT, and that it did not involve debt collection, as the service at issue was provided to the debtor and not to the creditor. It also ruled out the existence of an abusive practice.

22

The tax authority appealed against that decision to the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom). That court, in essence, confirmed that DPAS supplies services to patients in return for consideration. Furthermore, it confirmed that there was no abusive practice by referring, in particular, to the fact that, according to paragraph 73 of the judgment of 21 February 2006, Halifax and Others (C?255/02, EU:C:2006:121), taxpayers may choose to structure their business in such a way as to limit their tax liability, and to the fact that it could not in this case be regarded as an artificial arrangement seeking to avoid the consequences of the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646). In that regard, that court rejected the tax authority’s argument based on the principle of fiscal neutrality, by finding that the supply of services in question before it is different from that which was at issue in the case which gave rise to that judgment, since the consumers of those services were different and benefited in different capacities.

23

However, that court did not reach a conclusion on whether the services provided by DPAS to patients are exempt from VAT. It is of the opinion that the judgment of 28 October 2010, AXA UK

(C?175/09, EU:C:2010:646) supports DPAS's argument that those services constitute a transaction concerning payments, and are therefore exempt from VAT under Article 135(1)(d) of the VAT Directive, but it also notes that the judgments of 26 May 2016, Bookit (C?607/14, EU:C:2016:355), and of 26 May 2016, National Exhibition Centre (C?130/15, not published, EU:C:2016:357), show that another assessment is possible, and it is unsure how they might be reconciled. Furthermore, assuming that the supply of services at issue comes within the concept of a 'transaction concerning payments and transfers' within the meaning of Article 135(1)(d) of the VAT Directive, that court is unsure as to the scope of the concept of 'debt collection' within the meaning of that provision, given that, even though the contractual terms have changed in such a way that the consideration for the supply of services is henceforth paid by the debtor instead of the creditor, the services supplied by the service provider remain essentially the same.

24

In that context, the tax authority maintains, in essence, that the functional analysis of the services supplied by DPAS to patients is not different from that of the services which were at issue in the cases which gave rise to the judgments of 26 May 2016, Bookit (C?607/14, EU:C:2016:355), and of 26 May 2016, National Exhibition Centre (C?130/15, not published, EU:C:2016:357), from which it follows that a taxable person who uses other financial service providers for transfers between accounts does not carry out transactions concerning transfers. DPAS, it argues, thus merely performed administrative tasks. According to the tax authority, the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646), is not relevant in the present case, on the ground that DPAS provides services to patients and not to dentists. However, if it were appropriate to take the view that DPAS is making supplies of transfers to the dentists, the findings derived from the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646), would apply and the service in question should be classified as debt collection, if the principle of fiscal neutrality is not to be infringed.

25

DPAS, by contrast, maintains that, according to the findings established in the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646), the provision of services in question is a transaction concerning payments but does not constitute a debt collection since, as of 1 January 2012, it is provided to debtors. It is therefore a supply of services exempt from VAT. The judgments of 26 May 2016, Bookit (C?607/14, EU:C:2016:355), and of 26 May 2016, National Exhibition Centre (C?130/15, not published, EU:C:2016:357), on the one hand, and the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646), on the other hand, are, it submits, compatible, considering in particular the significant factual differences in the cases which gave rise to those judgments. According to DPAS, the services which it provides are, by contrast, highly similar to the service in question in the case which gave rise to the judgment of 13 March 2014, ATP PensionService (C?464/12, EU:C:2014:139).

26

In that context, the Upper Tribunal (Tax and Chancery Chamber) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1)

Is a service, such as that performed by the taxpayer in the present case, consisting of directing, pursuant to a direct debit mandate, that money is taken by direct debit from a patient's bank account and passed by the taxpayer, after deduction of the taxpayer's remuneration, to the patient's dentist and insurance provider, an exempt supply of transfer or payment services within Article 135(l)(d) of the … VAT Directive? In particular, do the decisions [of 26 May 2016, Bookit

(C?607/14, EU:C:2016:355), and of 26 May 2016, National Exhibition Centre (C?130/15, not published, EU:C:2016:357),] lead to the conclusion that the exemption from VAT in Article 135(l)(d) [of the VAT Directive] is not applicable to a service, such as that performed by the taxpayer in the present case, which does not involve the taxpayer itself debiting or crediting any accounts over which it has control but which, where a transfer of funds results, is essential to that transfer? Or does the decision [of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646),] lead to the contrary conclusion?

(2)

What are the relevant principles to be applied for determining whether or not a service such as that performed by the taxpayer in the present case falls within the scope of “debt collection” within Article 135(l)(d) [of the VAT Directive]? In particular, if (as the Court decided in [the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646)] in relation to the same or a very similar service) such a service would constitute debt collection if provided to the person to whom the payment is due (i.e. the dentists in the present case and in [the case which gave rise to that judgment]), does that service also constitute debt collection if such a service is provided to the person from whom the payment is due (i.e. the patients in the present case)?’

Consideration of the questions referred

The first question

27

By its first question, the referring court asks, in essence, whether Article 135(1)(d) of the VAT Directive must be interpreted as meaning that the VAT exemption which is provided for therein for transactions concerning payments and transfers applies to a supply of services, such as that at issue in the main proceedings, which consists, for the taxable person, in requesting from the relevant financial institutions, first, that a sum of money be transferred from a patient’s bank account to that of the taxable person pursuant to a direct debit mandate and, second, that that sum, after deduction of the remuneration due to that taxable person, be transferred from the latter’s bank account to the respective bank accounts of that patient’s dentist and insurer.

28

In accordance with the Court’s settled case-law, the exemptions laid down in Article 135(1) of the VAT Directive constitute independent concepts of EU law whose purpose is to avoid divergences in the application of the VAT system as between one Member State and another (see judgments of 25 February 1999, CPP, C?349/96, EU:C:1999:93, paragraph 15, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 33 and the case-law cited).

29

It is also settled case-law that the terms used to specify those exemptions must be interpreted strictly, since they constitute exceptions to the general principle that VAT is to be levied on all services supplied for consideration by a taxable person (see judgments of 10 March 2011, Skandinaviska Enskilda Banken, C?540/09, EU:C:2011:137, paragraph 20, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 34 and the case-law cited).

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In that context, it should be noted that Article 135(1)(d) of the VAT Directive provides that Member States are to exempt ‘transactions, including negotiation, concerning deposit and current accounts,

payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection’.

31

The transactions exempted under that provision are thus defined according to the nature of the services provided and not in terms of the person supplying or receiving the service. Accordingly, the exemption is subject, not to the condition that the transactions be effected by a certain type of institution or legal person, but to the condition that the transactions in question relate to the sphere of financial transactions (see, to that effect, judgments of 28 October 2010, AXA UK, C?175/09, EU:C:2010:646, paragraph 26 and the case-law cited, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 36).

32

In the present case, only the exemption provided for in Article 135(1)(d) of the VAT Directive for ‘transactions … concerning … payments [and] transfers’ is at issue in the case in the main proceedings.

33

In that regard, the Court has already held that a transfer is a transaction consisting of the execution of an order for the transfer of a sum of money from one bank account to another. It is characterised in particular by the fact that it involves a change in the legal and financial situation existing, on the one hand, between the person giving the order and the recipient and, on the other, between those parties and their respective banks and, in some cases, between the banks. Moreover, the transaction which produces that change is solely the transfer of funds between accounts, irrespective of its cause. Thus, a transfer being only a means of transmitting funds, the functional aspects are decisive for the purpose of determining whether a transaction constitutes a transfer within the meaning of Article 135(1)(d) of the VAT Directive (judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraph 53, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 38 and the case-law cited).

34

Moreover, the wording of that provision does not in principle preclude a transfer from being broken down into separate services, which then constitute ‘transactions concerning transfers’ within the meaning of that provision (judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraph 64, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 39). The exemption provided for in that provision can, however, relate only to transactions which, viewed broadly, form a distinct whole, fulfilling in effect the specific, essential functions of such transfers, in so far as they have the effect of transferring funds and entail changes in the legal and financial situation resulting from that transfer (see, to that effect, judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraphs 66 to 68, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 39).

35

That interpretation does not presuppose any particular method for effecting those transactions, since a transfer may be effected by an actual transfer of funds or by means of accounting entries (see, to that effect, judgment of 13 March 2014, ATP PensionService, C?464/12, EU:C:2014:139, paragraphs 80 and 81).

36

Services exempted under the VAT Directive must also be distinguished from the supply of mere physical, technical or administrative services. To that end, it is relevant to examine, in particular, the extent of the liability of the supplier of the services in question and, inter alia, whether that liability is restricted to technical aspects or whether it extends to the specific, essential aspects characterising the transactions (see, to that effect, judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraph 66, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 40).

37

Furthermore, according to the Court's settled case-law, transactions concerning transfers and transactions concerning payments are treated equally for the purposes of the exemption under Article 135(1)(d) of the VAT Directive (see, to that effect, judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraph 50, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 43 and the case-law cited).

38

As the Advocate General also observed in points 35 and 39 of his Opinion, it follows from those factors that a supply of services may be regarded as a 'transaction concerning transfers' or as a 'transaction concerning payments' within the meaning of Article 135(1)(d) of the VAT Directive only where it has the effect of making the legal and financial changes which are characteristic of the transfer of a sum of money. By contrast, the supply of a mere physical, technical or administrative service not effecting such changes will not come within that concept (see, inter alia, to that effect, judgment of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraphs 40 and 41).

39

In the present case, it is apparent from the order for reference that the supply of services at issue in the main proceedings consists for DPAS, first, in requesting from the financial institution of the patient who entered into a dental plan pursuant to a direct debit mandate that a predetermined sum of money be transferred from that patient's bank account to DPAS's account and, second, in subsequently requesting the financial institution with which it holds its account to transfer that sum from that account to the respective bank accounts of the dentist and the patient's insurer, DPAS retaining part of that sum as remuneration due to it by the patient for that transaction, which DPAS itself describes as 'management payments [due by the patient under] dental plans [which he has taken out]'.

40

Such a supply of services does not, as such, effect the legal and financial changes which characterise the transfer of a sum of money within the meaning of the case-law referred to in paragraphs 33 to 38 of the present judgment, but is administrative in nature.

41

DPAS does not itself carry out the transfers or the materialisation in the relevant bank accounts of the sums of money agreed in the context of the dental plans at issue in the main proceedings, but asks the relevant financial institutions to carry out those transfers. By contrast, as the tax authority contends, a supply of services such as that at issue in the main proceedings is comparable to the card-handling fees which were at issue in the case giving rise to the judgment of 26 May 2016,

Bookit (C?607/14, EU:C:2016:355). That case concerned, in essence, a supply of services which consisted for the taxpayer in submitting to the financial institutions concerned requests for payment which the customers had previously accepted to carry out with a view to purchasing a product and which constituted a preparatory stage to carrying out transactions concerning payments and transfers effected by those establishments (see, to that effect, judgment of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraphs 44 to 51 and 53).

42

As the Advocate General has also observed in point 51 of his Opinion, a supply of services such as that at issue in the main proceedings is merely a step prior to the transactions concerning payments and transfers covered by Article 135(1)(d) of the VAT Directive.

43

In that regard, it may also be noted that, admittedly, the supply of services at issue in the main proceedings is, in the context of the dental plans concerned, essential to making the payments owed by the patients to their dentists and insurers, since it is through DPAS's involvement that the patients' intention to make the payments in question is expressed. However, since Article 135(1)(d) of the VAT Directive must be interpreted strictly, the mere fact that a service is essential for completing an exempt transaction does not warrant the conclusion that that service is to be exempted (judgments of 13 December 2001, CSC Financial Services, C?235/00, EU:C:2001:696, paragraph 32, and of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraph 45 and the case-law cited).

44

Furthermore, it is apparent from the new general conditions implemented with effect from 1 January 2012, attached to the letter of 8 September 2011 addressed to the dentists and reproduced in the order for reference, that DPAS is not responsible for the failure or cancellation of a direct debit mandate on the basis of which DPAS requests that the sums which it must subsequently transfer to the dentist and to the insurer be collected from the bank account of the patient concerned.

45

As regards, moreover, the general scheme and purpose of the VAT Directive, it should be noted, first, that the transactions exempted under Article 135(1)(d) to (f) of that directive, even though they do not necessarily have to be carried out by a bank or a financial institution, are, by their nature, financial transactions (see, inter alia, judgment of 22 October 2015, Hedqvist, C?264/14, EU:C:2015:718, paragraph 37 and the case-law cited, and, to that effect, judgment of 26 May 2016, Bookit, C?607/14, EU:C:2016:355, paragraphs 36 and 54). However, as has been established in paragraphs 40 and 41 of the present judgment, a provision of services such as that at issue in the main proceedings is administrative in nature.

46

Second, the exemptions provided for in Article 135(1)(d) to (f) of the VAT Directive seek, inter alia, to alleviate the difficulties connected with determining the taxable amount and the amount of VAT deductible (see, inter alia, judgments of 19 April 2007, Velvet & Steel Immobilien, C?455/05, EU:C:2007:232, paragraph 24, and of 22 October 2015, Hedqvist, C?264/14, EU:C:2015:718, paragraph 36). It is, however, apparent from the order for reference that the amount of remuneration due by the patient to DPAS for the supply of services at issue in the main

proceedings corresponds to a difference between the amount collected from the account of that patient and the amounts subsequently transferred by DPAS to that patient’s dentist and insurer. In those circumstances, the determination of the taxable amount does not present any particular difficulty.

47

It must therefore be held, in view of all of the foregoing, that a supply of services such as that at issue in the main proceedings cannot come under the exemption provided for in Article 135(1)(d) of the VAT Directive for transactions concerning payments and transfers.

48

In addition, the national court is unsure as to the relevance, for the purposes of the present case, of the judgment of 28 October 2010, AXA UK (C?175/09, EU:C:2010:646). In that regard, it should be noted, as did the Advocate General in points 59 to 63 of his Opinion, that, in that judgment, the Court did not examine whether the supply of services at issue in the case which gave rise to it met the criterion established by the Court’s previous case-law for the purpose of identifying a transaction concerning payments and transfers, from which it was already clear that the relevant criterion in that regard was whether the supply of services at issue had the effect of making the legal and financial changes which are characteristic of the transfer of a sum of money (see judgments of 5 June 1997, SDC, C?2/95, EU:C:1997:278, paragraphs 53 and 66, and of 13 December 2001, CSC Financial Services, C?235/00, EU:C:2001:696, paragraphs 26 to 28), but focused its analysis on the question of whether that supply of services was covered by the concept of ‘debt collection’ within the meaning of Article 13B(d)(3) of the Sixth Directive, now Article 135(1)(d) of the VAT Directive.

49

It is also not apparent from that judgment whether the Court thereby wished to broaden the concept of ‘transactions … concerning … payments [and] transfers’, within the meaning of those provisions, which it had already defined by its previous case-law, so as to include transactions which do not, in themselves, make the legal and financial changes which are characteristic of the transfer of a sum of money, or to redefine that concept by establishing new criteria.

50

In the light of those factors, no conclusion in favour of the exemption of the supply of services at issue in the main proceedings, on the ground that it constitutes a transaction concerning payments or transfers, within the meaning of the Court’s case-law, can be drawn from that judgment.

51

In the light of all of the foregoing considerations, the answer to the first question is that Article 135(1)(d) of the VAT Directive must be interpreted as meaning that the VAT exemption which is provided for therein for transactions concerning payments and transfers does not apply to a supply of services, such as that at issue in the main proceedings, which consists for the taxable person in requesting from the relevant financial institutions, first, that a sum of money be transferred from a patient’s bank account to that of the taxable person pursuant to a direct debit mandate and, second, that that sum, after deduction of the remuneration due to that taxable person, be transferred from the latter’s bank account to the respective bank accounts of that patient’s dentist and insurer.

The second question

52

In the light of the answer to the first question, there is no need to reply to the second question.

Costs

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Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

Article 135(1)(d) 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 exemption from value added tax which is provided for therein for transactions concerning payments and transfers does not apply to a supply of services, such as that at issue in the main proceedings, which consists for the taxable person in requesting from the relevant financial institutions, first, that a sum of money be transferred from a patient’s bank account to that of the taxable person pursuant to a direct debit mandate and, second, that that sum, after deduction of the remuneration due to that taxable person, be transferred from the latter’s bank account to the respective bank accounts of that patient’s dentist and insurer.

Ileši?

Rosas

Toader

Prechal

Jaraši?nas

Delivered in open court in Luxembourg on 25 July 2018.

A. Calot Escobar

Registrar

M. Ileši?

President of the Second Chamber

(*1) Language of the case: English.