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Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 24 April 2019 — E. Sp. z o.o. Sp. k., having its seat in S. v Minister Finansów

(Case C-335/19)

(2019/C 280/27)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: E. Sp. z o.o. Sp. k., having its seat in S.

Defendant: Minister Finansów

Questions referred

1.

Do the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (1) — and in particular Article 90(2) thereof — having regard to the principles of fiscal neutrality and proportionality, permit the introduction into national law of a restriction on the ability to reduce the taxable amount in the event of partial or total non-payment by reason of the specific tax status of the debtor and the creditor?

2.

In particular, does EU law not preclude the introduction of a rule in national legislation which provides for the option of taking advantage of ‘bad debt relief’ only on condition that on the date on which the service or goods are supplied and on the day preceding the date on which the tax return adjustment is filed in order to benefit from this relief:

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the debtor is not subject to insolvency or liquidation proceedings?

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the creditor and debtor are both registered as active VAT taxpayers?

(1) OJ 2006 L 347, p. 1.