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Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 28 January 2020 — UAB ‘P’ v Dyrektor Izby Skarbowej w Białymstoku

(Case C-48/20)

(2020/C 191/08)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: UAB ‘P’

Defendant: Dyrektor Izby Skarbowej w Białymstoku

Question referred

Must Article 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ... (1) [as amended,] and the principle of proportionality be interpreted as precluding the application, in a situation such as that in the main proceedings, of a national provision such as Article 108(1) of the Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług (Law of 11 March 2004 on [the] tax on goods and services) ... (2) to invoices with VAT incorrectly indicated that were issued by a taxable person acting in good faith, if:

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the taxable person’s actions did not involve tax fraud, but resulted from an erroneous interpretation of the law by the parties to the transaction, based on an interpretation given by the tax authorities and a common practice in that respect at the time of the transaction, which incorrectly assumed that the issuer of the invoice was supplying goods when in fact it was providing a VAT-exempt financial intermediation service; and

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the recipient of the invoice with the VAT incorrectly indicated would have been entitled to claim a VAT refund if the transaction had been correctly invoiced by a taxable person who was actually supplying the recipient with goods?

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

(2) Journal of Laws (Dziennik Ustaw) of 2011, No 177, item 1054, as amended.