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Request for a preliminary ruling from the Tribunalul Bucureşti (Romania) lodged on 12 February 2020 — Wilo Salmson France SAS v Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti, and Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Administraţia Fiscală pentru Contribuabili Nerezidenţi

(Case C-80/20)

(2020/C 279/23)

Language of the case: Romanian

Referring court

Tribunalul Bucureşti

Parties to the main proceedings

Applicant: Wilo Salmson France SAS

Defendants: Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti, and Agenţia Naţională de Administrare Fiscală — Direcţia Generală Regională a Finanţelor Publice Bucureşti — Administraţia Fiscală pentru Contribuabili Nerezidenţi

Questions referred

1.

As regards the interpretation of Article 167 of Directive 2006/112/EC, (1) read in conjunction with Article 178 thereof, is there a distinction between the moment the right of deduction arises and the moment it is exercised with regard to the way in which the system of VAT operates?

To that end, it is necessary to clarify whether the right to deduct VAT may be exercised where no (valid) tax invoice has been issued for purchases of goods.

2.

As regards the interpretation of Articles 167 and 178 of Directive 2006/112/EC, read in conjunction with the first sentence of Article 14(1)(a) of Directive 2008/9/EC, (2) what is the procedural point of reference for determining the lawfulness of the exercise of the right to a refund of VAT?

To that end, it is necessary to clarify whether an application for a refund may be made in respect

of VAT which became chargeable prior to the 'refund period' but which was invoiced during the refund period.

3.

As regards the interpretation of the first sentence of Article 14(1)(a) of Directive 2008/9/EC, read in conjunction with Article 167 and Article 178 of Directive 2006/112/EC, what are the effects of the annulment of invoices and the issuing of new invoices in respect of purchases of goods made before the 'refund period' on the exercise of the right to a refund of the VAT relating to those purchases?

To that end, it is necessary to clarify whether, in the event of the annulment, by the supplier, of the invoices initially issued for the purchase of goods and the issuing of new invoices by that supplier at a later date, the exercise of the right of the recipient to apply for a refund of the VAT relating to the purchases is to be linked to the date of the new invoices, in a situation where the annulment of the initial invoices and the issuing of the new invoices is not within the recipient's control but is exclusively at the supplier's discretion.

4.

May national legislation make the refund of VAT granted under [Directive 2008/9/EC] conditional upon the chargeability of the VAT in a situation where a corrected invoice is issued during the application period?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

(2) Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ 2008 L 44, p. 23).