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Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 26 June 2020 — Ferimet S.L. v Administración General del Estado

(Case C-281/20)

(2020/C 320/12)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Ferimet S.L.

Defendant: Administración General del Estado

Questions referred

1.

Must Article 168 and related provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, (1) the principle of tax neutrality arising from that directive, and the associated case-law of the Court of Justice be interpreted as not allowing a trader to deduct input VAT where, under the reverse charging of VAT, known in EU law as the reverse charge procedure, the documentary evidence (invoice) issued by that trader for the goods he or she has purchased states a fictitious supplier, although it is not disputed that the trader in question did actually make the purchase and used the purchased materials in the course of his or her trade or business?

2.

In the event that a practice such as that described above — of which the interested party must have been aware — can be characterised as abusive or fraudulent for the purposes of refusing the deduction of input VAT, is it necessary, in order for the deduction to be refused, to prove in full the existence of a tax advantage that is incompatible with the guiding objectives of ‘VAT regulation?’

3.

Lastly, if such proof is required, must the tax advantage which would be grounds for refusing the deduction and which must be identified in the specific case in question relate exclusively to the

taxpayer (who purchased the goods), or could that advantage be one which relates to other parties involved in the transaction?

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