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22.3.2021

EN

Official Journal of the European Union

C 98/3

Request for a preliminary ruling from the Veszprémi Törvényszék (Hungary) lodged on 30 November 2020 — ENERGOTT Fejleszt? és Vagyonkezel? Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-643/20)

(2021/C 98/04)

Language of the case: Hungarian

Referring court

Veszprémi Törvényszék

Parties to the main proceedings

Applicant: ENERGOTT Fejleszt? és Vagyonkezel? Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1.

Must Article 90(1) and (2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive'), (1) be interpreted, having regard in particular the judgment [of 23 November 2017, Di Maura (C-246/16)], (2) the order [of 29 January 2020, Porr Építési Kft. (C-292/19)], (3) and the fundamental principles of the effectiveness of EU law and of equivalence, as meaning that Member States cannot set as the starting point of the limitation period, for the purposes of repayment of VAT relating to debts which have become definitively irrecoverable, a date prior to that on which the debt forming the basis of the VAT repayment application becomes irrecoverable?

2.

Must Article 90(1) and (2) and Article 273 of the VAT Directive be interpreted, having regard in particular the judgment [of 23 November 2017, Di Maura (C-246/16)], the order [of 29 January 2020, Porr Építési Kft. (C-292/19)] and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the practice of a Member State whereby, in the context of repayment of VAT relating to debts which have become irrecoverable and provided that that tax can be repaid, the authorities of the Member State responsible for applying the legislation require that, in addition to lodging a claim for the debt to which that tax relates in a winding-up

procedure, the taxable person take further steps to settle that debt, is contrary to those principles?

3.

Must Article 90(1) and (2) and Article 273 of the VAT Directive be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)], and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the legal practice of a Member State, whereby, in the event of non-payment, the company that provides the service in question must immediately cease to provide it since, by failing to proceed thus and instead continuing to provide that service, it will not be able to recover the VAT corresponding to the debts which have become definitively irrecoverable despite the fact that the impossibility of recovery arose subsequently, is contrary to the aforementioned provisions?

4.

Must Article 90(1) and (2), Article 273 of the VAT Directive, and Articles 15 to 17 of the Charter of Fundamental Rights of the European Union be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)], and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the authorities of the Member State responsible for applying the legislation have established the requirements set out in Questions 2 to 4 referred for a preliminary ruling without any legal basis further to the judgment in *Porr Építési Kft.* (C-292/19), and that those conditions were not clear to the taxable persons concerned before those debts became definitively irrecoverable?

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

(2) EU:C:2017:887,

(3) EU:C:2019:901.