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Request for a preliminary ruling from the Tribunalul Prahova (Romania) lodged on 27 July 2021 — SC Cartrans Preda SRL v Direc?ia General? Regional? a Finan?elor Publice Ploie?ti — Administra?ia Jude?ean? a Finan?elor Publice Prahova

(Case C-461/21)

(2021/C 452/12)

Language of the case: Romanian

Referring court

Tribunalul Prahova

Parties to the main proceedings

Applicant: SC Cartrans Preda SRL

Defendant: Direc?ia General? Regional? a Finan?elor Publice Ploie?ti — Administra?ia Jude?ean? a Finan?elor Publice Prahova

Questions referred

1.

For the purposes of granting a VAT exemption for transport operations and services relating to the importation of goods, in accordance with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, (1) are the provisions of Article 86(1)(b) and (2) to be interpreted as meaning that the recording of an import operation (for example, the raising of an entry summary declaration by the customs authority by means of the allocation of a number referred to as the MRN or Master Reference Number) always entails the inclusion, in the basis of calculation of the customs value, of the transport costs up to the first place of destination of the goods in the territory of the Member State of importation. Does the existence of an MRN, in relation to which there is no valid evidence of fraud, implicitly substantiate the fact that all the expenses provided for in Article 86(1)(a) and (b) have been included in the customs taxable basis?

2.

Do the provisions of Articles 144 and 86(1)(b) and (2) of Directive [2006/112] preclude the Member State's taxation practice by which the VAT exemption for transport services relating to the importation of goods into the [European Union] is refused on the ground that no strictly formal proof of the inclusion of transport costs in the customs value has been provided, even where, first,

other relevant documents accompanying the import — the summary declaration and the CMR consignment note showing delivery to the recipient — have been produced and, second, there is no evidence to cast doubt on the authenticity and reliability of the summary declaration or CMR consignment note?

3.

With reference to the provisions of Article 57 TFEU, does the recovery of VAT and excise duties from the tax authorities of more than one Member State constitute an intra-Community supply of services or the activity of a general commission agent acting as an intermediary in a commercial transaction?

4.

Is Article 56 TFEU to be interpreted as meaning that there is a restriction on the free movement of services where the recipient of a service supplied by a service provider established in a different Member State is required, under the legislation of the Member State in which the recipient is established, to withhold tax on the remuneration due for the service supplied, while there is no such requirement where the same service is provided under a contract with a service provider established in the same Member State as that in which the recipient is established?

5.

Is the tax treatment in the State in which the payer of the income is resident a factor which renders the freedom to provide services less attractive or more difficult where, in order to avoid the levying of a 4 % withholding tax, the resident must confine itself to cooperation in the recovery of VAT and excise duties with entities which are also resident, to the exclusion of entities established in other Member States?

6.

Can the fact that a tax of 4 % (or 16 % in some cases) of the gross amount is levied on the income received by a non-resident, while the corporation tax for a service provider resident in the same Member State is (if it makes a profit) levied at the rate of 16 % of the net amount, also be regarded as an infringement of Article 56 TFEU, since it constitutes another factor which renders the freedom of non-residents to provide the services in question less attractive or more difficult?

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