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C 513/20

Request for a preliminary ruling from the Finanzgericht Nürnberg (Germany) lodged on 28 September 2021 — A v Finanzamt M

(Case C-596/21)

(2021/C 513/30)

Language of the case: German

Referring court

Finanzgericht Nürnberg

Parties to the main proceedings

Applicant: A

Defendant: Finanzamt M

Questions referred (1)

1.

Can the second purchaser of a good be refused the right of deduction in respect of the purchase because he or she should have known that the original seller had evaded value added tax (VAT) in the first sale, even though the first purchaser had known that the original seller had evaded VAT in the first sale?

2.

If Question 1 is answered in the affirmative, is the refusal of the right of deduction in the case of the second purchaser limited in terms of amount to the shortfall in tax revenue caused by the evasion?

3.

If Question 2 is answered in the affirmative, is the shortfall in tax revenue calculated

a.

by comparing the tax lawfully payable in the supply chain with the tax actually assessed,

b.

by comparing the tax lawfully payable in the supply chain with the tax actually paid, or

c.

in another way, and, if so, what way?

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