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Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 1 December 2021 — W. Sp. z o. o. v Dyrektor Izby Administracji Skarbowej w Łodzi

(Case C-729/21)

(2022/C 128/08)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant in the appeal on a point of law: W. Sp. z o. o.

Respondent in the appeal on a point of law: Dyrektor Izby Administracji Skarbowej w Łodzi

Questions referred

1.

Must the provisions of EU law concerning VAT be interpreted as allowing the application of a provision of national law — such as Article 6(1) of the ustawa o podatku od towarów i usług (Law on the tax on goods and services) of 11 March 2004 (Dz. U. of 2021, item 685; ‘the Law on VAT’) — which excludes taxation of a supply of an organised part of an undertaking without making the application of that exclusion subject to the condition referred to in Article 19 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ..., (1) that is to say, legal succession between the seller and the purchaser?

2.

If the answer to the first question is in the affirmative, do all the assets of that organised part of the seller’s property have to be transferred for the exclusion referred to in Article 6(1) of the Law on VAT to apply and does a change in this respect (in particular the non-conclusion of agreements concerning the insurance and management of the property being transferred) mean that there has been a taxable supply of goods?

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