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By PwC Deutschland | 28. Januar 2016

Seepage of bonded goods in transport dutiable

The ECJ has held that oil lost through seepage or evaporation during transport is to be dutied as a withdrawal from loss of shipment.

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An oil company moved a cargo of diesel fuel from Holland to Germany. On arrival, it was found that 2.02% of the cargo had been lost, presumably through seepage, spillage or evaporation. The German customs office allowed a standard 2% for losses in transit, but charged the excess to fuel oil duty as a deemed withdrawal through unexplained inventory shortage. The company protested against the charge of €24.93 on the grounds that the relevant EU provisions referred to lost cargoes, rather than to losses from a cargo, the bulk of which remained intact.

The ECJ has now upheld the position of the customs office. The provision at issue should be interpreted in accordance with its meaning and intent, which, clearly, was to prevent undutied withdrawals of bonded goods into free circulation. Thus, goods lost in transit led to a duty charge regardless of whether the whole shipment or only a part thereof was at issue.

The ECJ case reference is C-64/15 *BP Europa* judgment of January 28, 2016.

Schlagwörter

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