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Rejection of credit note leads to loss of input tax deduction

The Supreme Tax Court has upheld the letter of the law providing that a credit note loses its invoice status as a voucher for input tax deduction on rejection by the recipient – regardless of whether or not the rejection is justified.

A scrap metal merchant agreed with a separator that he would receive a credit note for any valuable metals that could be recovered from his scrap. Under the VAT Act, such a credit note has the effect of an invoice, provided its issue is agreed in advance and unless and until the recipient objects. Relying on this, the separator issued a credit note for the metals recovered and paid the dealer the amount due at the agreed rates together with standard rate VAT. He then deducted the VAT as input tax, the credit note having the quality of an invoice issued by the supplier, the scrap metal merchant. The following day, the merchant faxed the separator a refusal to accept any credit notes as invoices, adding for good measure that the separator should correct his input tax deduction. He sent a copy of this refusal to the tax office, but made no move to repay the VAT received from the separator. The tax office refused to allow the input tax deduction claimed, on the grounds that the separator did not hold a valid invoice or invoice equivalent.

The Supreme Tax Court has now confirmed the tax office in its refusal. The legal position between merchant and separator was irrelevant to the basic requirement that the business claiming an input tax deduction may only do so on the basis of a valid voucher. Thus, the argument that the separator had a valid claim in law on the merchant and could have insisted on an identical invoice for the amount at issue did not alter the fact that the credit note had lost its validity on its rejection by the merchant. What was important was that the rejection was a proven fact, not its justification.

Supreme Tax Court judgment XI R 25/11 of January 23, 2013, published on March 20

Keywords

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