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Standard fuel tank of vehicle may be fitted other than by manufacturer

The ECJ has held that the definition of the “standard” fuel tank of a motor vehicle can include tanks for fuel used to operate the vehicle systems but fitted by a person other than the vehicle manufacturer.

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A road haulage business required a customised body for one of its lorries. This was ordered separately from a coach builder who fitted it as an adaptation to the original vehicle. In the course of this work, the builder had to dismount and relocate the original fuel tank. He also added a second fuel tank at the request of the owner in order to increase the vehicle's range. The owner could have purchased the vehicle with a second tank already fitted, but did not do so in order to avoid the addition cost of remounting. The business regularly refuelled its vehicles in Holland because diesel oil was cheaper there.

The German customs authority claimed that the fuel had been imported into Germany in non-standard containers and that fuel oil duty was due on the import. The road haulage business contested this claim on the basis of its view of the spirit of the exemption for the import of fuel in the "standard" fuel tanks of motor vehicles. The purpose of this exemption was to avoid double taxation without impeding cross-border road traffic with bureaucracy.

The ECJ has now held that the purpose of the exemption is met in the present case, since the two fuel tanks are permanently fitted to the vehicle and are directly linked to the engine. The fuel is used to power the vehicle. The same would apply to fuel used to drive refrigeration or other systems in operation during transport. Under these circumstances, that fact that the tanks were fitted (or moved) by a person other than the vehicle manufacturer did not invalidate the exemption. There was thus no requirement to pay fuel oil duty for a second time.

The ECJ case reference is C-152/13 *Holger Forstmann* judgment of September 10, 2014.

Keywords

duty, fuel oil, road haulage