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By PwC Deutschland | 13 June 2025

ECJ: No import VAT on the re-importation into the EU of goods exempt from customs duties

The European Court of Justice (ECJ) had to deal with questions regarding the exemption from import VAT on the re-importation into the EU of goods exempt from customs duties. Specifically, whether the import VAT exemption is accessory to the exemption from customs duties for re-imported goods or if both exemptions are to be applied independently.

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Background

The applicant owns horses which are used in competitions in various countries. She exported two horses to Norway, that is to say, outside the customs territory of the Union. After the horses had participated in competitions, they were brought back into the Union through a border crossing from Norway to Sweden. The applicant did not stop at the customs post to present the goods brought in and submit a customs declaration. Instead, she was only stopped at the Tullverket (Customs Authority, Sweden; 'the Customs Authority') road check shortly after she had passed the customs post.

As a result, the customs authority charged import VAT. However, no customs debt was established. In their opinion exemption from VAT on re-importation could not be granted because the applicant had not declared the horses for release for free circulation or applied for relief from customs duty.

The question for the ECJ to answer was whether „Article 143(1)(e) of the VAT Directive and Articles 86(6) and 203 of the Union Customs Code (UCC) must be interpreted as meaning that both the material and the formal (procedural) conditions laid down in Article 203 of the Union Customs Code (UCC) must be fulfilled in order for relief from import duty – and thus exemption from VAT – to be granted on re-importation where a customs debt has been incurred through non-compliance with the obligation for presentation laid down in Article 139(1) UCC.'

Decision

The ECJ held that, except where there is an attempt at deception, non-compliance with formal obligations such as the presentation of goods to customs and the declaration for release for free circulation provided for in Article 203 UCC **does not preclude the entitlement to the VAT exemption** in respect of the reimportation into the territory of the European Union of goods in the state in which they were exported.

It is apparent from the very wording of Article 143 (1) letter e of the VAT Directive that the VAT exemption for the reimportation of goods in the state in which they were exported is subject inter alia to the condition that those goods 'are exempt from customs duties'.

Article86(6) of the Customs Code extends the exemption provided for in Article203 of that code to cases where a customs debt has been incurred pursuant to, inter alia, Article79, on condition that the failure which led to that debt did not constitute an attempt at deception.

Article 86(6) would be largely deprived of its practical effect if it were to be interpreted as not applying in a situation such as that at issue in the main proceedings on the ground that the formal conditions required for the entitlement to relief from customs duty are not satisfied.

The fact that a taxable person such the plaintiff in the main proceedings has disregarded

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formal obligations such as the presentation to customs and the declaration for release for free circulation of horses upon their reimportation does not preclude, unless an attempt at deception is established, the application of the VAT exemption provided for in Article143(1)(e) of the VAT Directive. It is for the referring court to satisfy itself on that point and to determine whether the plaintiff in the main proceedings has failed to comply with such formal obligations, and in case this is true, if it is the result of mere negligence on her part which does not call into question her good faith.

Source:

ECJ judgment of 12 May 2025 **C?125/24** *Palmstråle*.

Keywords

VAT Exemption, customs duty, import VAT