

CJEU 11-06-2020 SCT C-146/19

Through **Editors** - June 11, 2020



CJEU SCT judgment

SCT corrected the declared VAT because claims on two companies of which the bankruptcy procedure was definitively terminated had not been paid. The Slovenian tax authorities found that SCT had not filed these claims in bankruptcy proceedings and that they had therefore been extinguished. On that basis, it concluded that the conditions for qualifying for a VAT reduction were not met.

SCT's objection was rejected. The referring court observes that, under Slovenian VAT legislation, the taxable amount of VAT in the event of non-payment can be reduced only if the taxable person is issued on the basis of official documents issued under an appropriate legal proceedings demonstrate that he was unable to recover that claim.

An arrangement under which a taxable person is denied the right to reduce the VAT paid on a bad debt if he has failed to file it in bankruptcy proceedings, even if that taxable person demonstrates that that debt would not have been collected if he had it is not permitted under the CJEU.

The national court must interpret national law in accordance with Article 90 of the VAT Directive or, if an interpretation in accordance with the directive is not possible, exclude any national legislation whose application would lead to a result contrary to that provision.

Operative part Judgment Request

1) Article 90 (1) and Article 273 of Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding the arrangement of a Member State under which a taxable person is denied the right to a reduction of value added tax paid on a bad debt if he has failed to file that claim in the bankruptcy proceedings initiated against his debtor, even if that taxable person demonstrates that the debt would not have been recovered had it been lodged.

(2) Article 90 (1) of Directive 2006/112 is to be interpreted as meaning that, by virtue of its obligation to take all measures appropriate to ensure the implementation of that provision, national courts are bound by national law. explain in accordance with that provision or, if such a compliant interpretation is not possible, exclude any national legislation the application of which would lead to a result contrary to that provision.

Related



CJEU 06-12-2018 Tratave C-672/17
December 6, 2018
In "Court of Justice"



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May 8, 2019
In "Court of Justice"



CJEU 12-10-2017 Lombard Ingatlan Lízing C-404/16
October 12, 2017
In "Court of Justice"

