

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 28 April 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Staatssecretaris van Financiën v Het Oudeland Beheer BV

(Case C-128/14) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — VAT — Taxable transactions — Application for the purposes of the business of goods acquired ‘in the course of the business’ — Treatment as supplies effected for consideration — Taxable amount)

(2016/C 243/03)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: Het Oudeland Beheer BV

Operative part of the judgment

1. Article 11A(1)(b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 95/7/EC of 10 April 1995 must be interpreted as meaning that the value of a right in rem granting its holder a right of use over immovable property and the cost of completing the office building built on the land in question may be included in the taxable amount of a supply, within the meaning of Article 5(7)(a) of that directive, as amended, where the taxable person has already paid value added tax on that value and that cost, but also deducted the value added tax immediately and in full;
2. In a situation such as that at issue in the main proceedings, where land and a building under construction on that land have been acquired with the grant of a right in rem granting its holder a right of use over such immovable property, Article 11A(1)(b) of Sixth Directive 77/388, as amended, must be interpreted as meaning that the value of that right in rem to be taken in account in calculating the taxable amount of a supply, within the meaning of Article 5(7)(a) of that directive, corresponds to the value of the amount to be paid in consideration each year for the remainder of the long lease granting the right in rem, as corrected or capitalised according to the same method used to determine the value of the grant of the long leasehold.

⁽¹⁾ OJ C 159, 26.5.2014.