Indirect Tax Services
Newsletter

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EJC - C-525/11 (Mednis SIA)

The European Court of Justice (ECJ) has issued last week (18 October 2012) its decision in a VAT case that will be relevant to companies that are owed VAT refunds. The case of Mednis SIA (Case C-525/11) examined whether the Latvian VAT Authorities are allowed to refund only a fraction of the overpaid VAT.

Case Facts

Mednis SIA is a Latvian VAT registered company whose core business activity is freight transportation.

In December 2007 the company applied to the Latvian tax authorities for a refund of VAT overpaid the previous month. The tax authorities decided to refund only part of the VAT (on the basis of national Decree which limited the VAT refund to 18% of the taxable supplies of that period).

The company appealed to the regional court, claiming that the decision of the tax authorities was unfair since, under the EU Directive, the tax authorities have to refund the excess VAT or carry it forward to the next VAT period, that is, to the following month.

ECJ Ruling

The ECJ ruled that the provisions of the VAT Directive have to be interpreted as not authorising the tax authority of a Member State to defer, without undertaking a specific analysis and solely on the basis of an arithmetical calculation, the refund of part of the excess VAT which has arisen during a one month tax period, pending the examination by that authority of the taxable person's annual tax return.

PwC comments:

The Court reconfirmed the principle of fiscal neutrality that must be prevalent in national legislation and whilst it admitted that the Member States have a legitimate interest in taking appropriate steps to protect their financial interests by prevention of tax evasion, avoidance and abuse they must do so in accordance with the principle of proportionality. Furthermore it stated that Member States must employ the means which, whilst enabling them to attain that objective effectively, are the least detrimental to the objectives and principles laid down by EU legislation, such as the fundamental principle of the right to deduct VAT.

We take this opportunity to remind you of our Newsletter 9, dated 15 October which makes reference to the recent amendment in the Cyprus VAT law that provides for repayment of principal amounts together with interest that will become effective from 19 February 2013.

Way forward: how PwC can help you

Our teams are ready to discuss the above developments with you and offer support for liaising with the VAT Authorities with respect to overdue VAT refunds.

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