

ECJ Preliminary Ruling Request (VAT): *Giocevi* (Case C-37/23) – Corte Suprema di Cassazione Submits Referral on the Refusal to Grant a VAT Refund of VAT Initially Paid Due to Some State Aid

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On 2 May 2023, a preliminary ruling request, lodged on 25 January 2023, was published in the Official Journal of the European Union. The Supreme Court of Cassation in Italy (*Corte Suprema di Cassazione*) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case *Agenzia delle Entrate v. PR* (C-37/23) on the refusal of granting a refund of the VAT already paid on amounts that were reduced due to a state aid measure related to an earthquake occurred in the Abruzzo region in Sicily in 2009. As a result of the state aid measure, the payment of the VAT was initially suspended and then when the payment was resumed, the amounts were reduced.

Concretely, the referring court seeks to clarify whether the refusal to refund VAT is compatible with the EU principle of fiscal neutrality, considering that the right to refund VAT is based on the grounds that VAT was already paid and, in the present case, due to the state aid measure in place, the net of VAT paid was reduced..

The *Corte Suprema di Cassazione* requested the ECJ to answer the following questions:

"Do the principles set out in the order [of 15 July 2015,] *Revenue Agency v. Nuova Invincibile srl*, C-82/14, EU:C:2015:510, and in the judgment of 17 July 2008, *Commission v. Italy*, C-132/06, EU:C:2008:412, preclude a legislative provision, such as that resulting from Article 33(28) of *Legge* (Law) No. 183 of 2011, which allows taxpayers to obtain a refund, at the rate of 60%, of the VAT paid in the period between April 2009 and December 2010, in relation to the earthquake which affected the Abruzzo territory on 6 April 2009?"