

# ECJ Preliminary Ruling Request (VAT): *B. sp. j.* (Case C-606/22) – Naczelny Sąd Administracyjny Submits Referral on Possibility of Adjusting VAT Taxable Amount When Price Remains Unchanged

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On 20 September 2022, the Naczelny Sąd Administracyjny (Supreme Administrative Court in Poland) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case of *Dyrektor Izby Administracji Skarbowej w Bydgoszczy v. B. sp. j.* (Case C-606/22) on the possibility of restricting the adjustment of the VAT taxable amount and output tax in a case where (i) the supplies were made at an inflated rate of VAT and were registered only by cash register receipts instead of VAT invoices; and (ii) the price (gross sales value) of the supply remains unchanged as a result of that adjustment.

Therefore, the Naczelny Sąd Administracyjny requested the ECJ to answer the following question:

"Must Articles 1(2) and 73 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [VAT Directive (2006/112)] and the principles of neutrality, proportionality and equal treatment be interpreted as precluding a practice on the part of the national tax authorities, in so far as that practice does not allow – on the grounds of lack of a domestic legal basis and unjust enrichment – an adjustment of the VAT taxable amount and output tax if sales of goods and services to consumers at an inflated rate of VAT were registered using a cash register and evidenced by cash register receipts rather than by VAT invoices, with the price (gross sales value) remaining unchanged as a result of that adjustment?"

This preliminary ruling request was published in the Official Journal of the European Union on 9 January 2023.