HMRC - VATSC82100 - MD Foods Plc (LON/00/899) & United Biscuits (UK) Ltd (Court Of Session [1992] STC325)

MD Foods supplied retailers with a ‘limited edition pack’ containing two packs of butter placed either side of a butter dish. The tribunal was asked to decide whether the transaction was one zero-rated supply of butter, or two separate supplies: one a zero-rated supply of butter and the other a standard-rated butter dish. The butter dish was designed to hold a 250 gram pack of that particular brand of butter. The purpose of the butter dish was to keep the butter spreadable, but still fresh and clean outside of a fridge. The dish cost MD Food approximately the same price as one pack of butter. The packs were placed in retailers’ chill cabinets together with all other butters. The butter dishes were not for sale separately.

In deciding there was one supply of a butter dish and a separate supply of butter, the tribunal found:

the butter and butter dish were economically and physically dissociable

the butter dish was not used as packaging in delivering packs of butter from seller to buyer

the single price charged was not decisive

the butter dish was designed for long term use

the butter dish was not ancillary to the supply of the butter, nor was it a better means of enjoying the principal item supplied.

The facts of this case can be contrasted with the earlier, pre-CPP, case of United Biscuits (UK) Ltd [1992] STC325 (Court of Session), where biscuits were supplied in a decorative tin costing 55% of the total cost of the product. In that case the court agreed the tin was integral to the biscuits, not merely in the sense that it was the container in which they were in fact packaged, but further in the sense that it served the supply of the biscuits to a restricted quality market, as well as prolonging their shelf-life, and keeping the biscuits in better condition once the consumption of biscuits had begun.

Previous page

Next page