HMRC - VATSC83150 - Talacre Beach Caravan Sales Ltd (C-251/05)

Talacre operated holiday home parks and in relation to that sold new, large, non-mobile residential caravans which were placed in their parks.

The available caravans were offered to the customer completely fitted and furnished and the customers could have no further influence over the contents.

The UK had considered the supply of the caravans and their contents as two separate supplies -a zero-rated supply of the caravans and standard-rated supply of the removable contents on the basis that the items were physically and economically separable.

Talacre took the view that the caravans and their contents comprised a single zero-rated supply (as the caravan was the main element of the supply) and sought repayment of VAT accounted for on the contents.

While the caravans and their contents were treated as two separate supplies (zero rated and standard rated) by the caravan manufacturers when supplied to Talacre, Talacre’s onward supply to the customers was at a single inclusive price including the pitch rental and did not show VAT in any form.

The Court of Appeal referred Talacre’s interpretation to the ECJ for consideration who quoted the following fundamental observation from CPP:

“In this respect, taking into account, first, that it follows from Article 2(1) of the Sixth Directive that every supply of a service must normally be regarded as distinct and independent and, second, that a supply which comprises a single service from an economic point of view should not be artificially split, so as not to distort the functioning of the VAT system, the essential features of the transaction must be ascertained in order to determine whether the taxable person is supplying the customer, being a typical consumer, with several distinct principal services or with a single service”

The court ruled however that existing case law on composite supplies was not directly transferrable to the situation at issue here and consequently that the question referred should be left open. The following response was supplied to the Court of Appeal;

“The rules on determining the scope of a transaction do not preclude an exemption of a Member State, under Article 28(2)(a) of Sixth Directive 77/388/EC 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, which zero-rates the supply of specified goods and excludes other items from the scope of the zero-rating, even if the excluded items and the included items are delivered together”.

The ECJ found that the UK was correct in restricting the zero rating for caravans to the supply of the caravan itself, while applying VAT at the standard rate to removable contents provided with the caravan, albeit that there was a single supply.

This case does not give information on how to decide whether there is a single or multiple supply as the starting point is that there is a single supply and the issue is about whether there can be more than one VAT liability applied to it.

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