HMRC - VATSC99400 - Illegal Supplies: Goods Obtained By Fraud

In a fraud, the victim is deceived into parting with goods voluntarily. A customer defrauds a supplier by obtaining goods without any intention of paying for them. The supplier will usually have issued a tax invoice and thus has to declare VAT on goods for which he will never get paid.

Such an instance occurred in the case of Harry B Litherland & Co Ltd (1978 VATTR 226). The Tribunal allowed the trader’s appeal that no supply had been made, ruling that the contract between Litherland and his customer had been rescinded because Litherland had promptly notified the police of the fraud and that there had been no supply.

Where the agreement for the supply of goods has been rescinded no supply has taken place and the supplier can adjust the output tax he has paid in accordance with the procedure in VATSC99500. However, in the following circumstances rescission is blocked:

the seller affirms the agreement by pursuing the fraudster for payment rather than the return of the goods

the seller unduly delays in rescinding the contract after discovering the fraud, or

the goods have been supplied on to a third party.

If rescission is blocked we have agreed a concession to allow the supplier to recover the VAT declared if the fraud is reported to the police and you are satisfied the business has been defrauded. When goods have simply not been paid for tax is due, but bad debt relief may be allowable subject to the normal rules of the scheme.

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