JUDGMENT OF THE COURT (Second Chamber)
15 March 1989 *

In Joined Cases 317/86, 48, 49, 285 and 363 to 367/87, 65 and 78 to 80/88

REFERENCES to the Court under Article 177 of the EEC Treaty

(1) in Case 317/86 by the tribunal de grande instance (Regional Court), Argentan, for a preliminary ruling in the proceedings pending before that court between

Philippe Lambert, a trader, residing in Flers,

and

Directeur des services fiscaux de l'Orne,

(2) in Cases 48 and 49/87 by the tribunal de grande instance, Verdun, for a preliminary ruling in the proceedings pending before that court between

Marie-Thérèse Charbonelle, a trader, residing in Flize (Case 48/87),

Willot SARL, whose registered office is in Vandœuvre-les-Nancy (Case 49/87),

and

Directeur des services fiscaux de la Meuse,

(3) in Case 285/87 by the tribunal de grande instance, Nîmes, for a preliminary ruling in the proceedings pending before that court between

Etablissements Dico SARL, whose registered office is in Avignon,

and

Directeur des services fiscaux du Gard,

* Language of the case: French.

(4) in Cases 363 to 367/87 and 78 to 80/88 by the tribunal de grande instance, Bonneville, for a preliminary ruling in the proceedings pending before that court between

Sofel SARL, whose registered office in in Sallanches (Cases 363 and 366/87 and 79/88),

Jean-Pierre Auber, a trader, residing in Megève (Cases 364 and 365/87),

Pellerey Display SARL, whose registered office is in Sallanches (Cases 367/87 and 78/88),

Jean Mentreau, a trader, residing in Chatel (Case 80/88),

and

Directeur des services fiscaux de la Haute-Savoie,

(5) in Case 65/88 by the tribunal de grande instance, Nîmes, for a preliminary ruling in the proceedings pending before that court between

Louis Garcia, a trader, residing in Nîmes,

and

Directeur des services fiscaux du Gard,

on the interpretation of Article 33 of the Sixth Council Directive on value-added tax and Articles 30 and 95 of the EEC Treaty,

THE COURT (Second Chamber),

composed of: T. F. O'Higgins, President of Chamber, G. F. Mancini and F. A. Schockweiler, Judges,

(the grounds of the judgment are not reproduced)

in answer to the questions submitted to it by the tribunaux de grande instance, Argentan, Verdun, Nîmes and Bonneville, by judgments of 6 November 1986, 12 February 1987, 29 June 1987, 24 July 1987, 28 October 1987 and 13 January 1988, hereby rules:

(1) Article 33 of the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax (VAT): uniform basis of assessment — must be interpreted as meaning that as from the introduction of the common system of VAT the Member States are no longer entitled to impose on the supply of goods, the provision of services or imports liable to VAT, taxes, duties or charges which can be characterized as turnover taxes.

(2) A charge which, although providing for different amounts according to the characteristics of the taxed article and possibly its location, is assessed exclusively on the basis of the placing thereof at the disposal of the public, without in fact taking account of the revenue which could be generated thereby, may not be regarded as a charge which can be characterized as a turnover tax.

(3) Article 95 of the EEC Treaty also applies to internal taxation which is imposed on the use of imported products where those products are essentially intended for such use and have been imported solely for that purpose.

(4) A system of taxation graduated according to the various categories of automatic games machines, which is intended to achieve legitimate social objectives and which procures no fiscal advantage for domestic products to the detriment of similar or competing imported products, is not incompatible with Article 95 of the EEC Treaty.

(5) Article 30 of the EEC Treaty does not apply to the taxation of products originating in other Member States the compatibility of which with the Treaty falls under Article 95 thereof.