



ECJ clarifies VAT treatment of sales of tools and moulds

1 Background

Tools and moulds play a central role, particularly in the automotive industry, but also in other sectors where semi-finished products are manufactured by sub-suppliers. They are often purchased in other countries and usually remain in the country of the manufacturer/sub-supplier, while ownership is often transferred across borders.

The VAT treatment could actually be relatively simple as, at first glance, these are often local supplies. The practical handling is only challenging because, for example, circumstances change in the course of projects and information does not always reach those persons responsible for tax matters at the right time. Added to this are country-specific interpretations and administrative instructions, as well as a fundamental reluctance on the part of the tax authorities to refund input VAT on the purchase of tools and moulds, as clearly demonstrated by the case decided by the ECJ on 23 October 2025 in *Brose Prievidza* (C-234/24).

2 Facts of the case

The German company *Brose Coburg* ordered a special tool from the Bulgarian supplier *IME Bulgaria*, which was intended for the production of components for the Slovakian company *Brose Prievidza*. Although the tool was sold by *IME Bulgaria* to *Brose Coburg*, it physically remained with the manufacturer in Bulgaria, which used it exclusively for the production of components for *Brose Prievidza*. *Brose Coburg* then sold the tool on to *Brose Prievidza*, without it leaving Bulgaria. *Brose Prievidza* applied for a refund of the Bulgarian VAT paid on the purchase of the tool. The Bulgarian tax authorities refused this on the grounds that the supply was to be regarded as an ancillary supply to the zero-rated intra-Community supplies of components from Bulgaria to Slovakia and was therefore also zero-rated – a refund was excluded.



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3 Decision of the ECJ

The ECJ once again emphasised that the actual physical transport of the goods to another EU Member State is a substantial condition for a zero-rated intra-Community supply. In the case in question, however, the tool remained in Bulgaria. Therefore, the supply of the tool could not be classified as an intra-Community supply.

Furthermore, the ECJ stressed that, in principle, each supply must be regarded as a separate supply. An exception only applies if there is an artificial split or if a supply qualifies as an ancillary supply to a main supply. In the specific case, the ECJ saw no evidence of artificial splitting or any ancillary supply, as the tool had its own economic purpose for *Brose Prievidza* (e.g. securing means of production, transferability, independence from supplier insolvency). The supply of the tool was therefore to be treated as a separate supply subject to VAT.

4 Conclusions

The facts of the case were favourable in that it was not difficult for the ECJ to view this multi-stage, centralised tool purchase via *Brose Coburg* as an independent supply of the tool. While the components were sold by *IME Bulgaria* to *Brose Prievidza*, the tool was sold by (or via) *Brose Coburg* to *Brose Prievidza*. The ECJ therefore does not consider this to be a single supply, because, firstly, different items were supplied and, secondly, these were supplied by different suppliers. The only exception to this would be an artificial division that would result in an unjustified tax advantage. However, the ECJ clearly rejects this possibility in the present case.

It remains unclear how the ECJ would have ruled if there had been no central handling (via *Brose Coburg*) and the tools and components had been sold directly from the supplier (*IME Bulgaria*) to the customer (*Brose Prievidza*). However, the ECJ points out that even the supplies of the components do not constitute a single supply. Does this not mean that the supply of another item (tool) must be considered an independent supply? The ECJ confirms this by stating that a certain connection between the transactions (because the tools are needed for the manufacture of the components) does not, in itself, lead to a single supply. According to the ECJ, this is also supported by the fact that the tools are used for series production, i.e. a large number of components. The only question that remains is how to treat sample tools, which are usually only used to produce a few sample parts.

The ECJ's statements are also particularly relevant, according to which the supply of the tool has its own purpose for the purchaser, so that it cannot be considered an ancillary supply. The ECJ considers the fact that the purchase serves to secure the purchaser's own position, in the event of delivery difficulties, to be a strong indication of a separate purpose. This security is likely to always be the purchaser's main motivation for purchasing the tool. In addition, the ECJ states that even the act of making a tool available to the manufacturer of the components already constitutes a separate purpose. This raises the question of whether the German Federal Ministry of Finance's letter of 27 November 1975, referred to in sec. 3.10 para 6 no.17 of the German Administrative VAT Guidelines, (as well as the analogous provision in recital 1106 of the Austrian VAT Guidelines), can still be valid. According to this, the sale of tools and moulds only constitutes an independent supply if the purchaser intends to use them for their own economic purposes, in particular to prevent the supplier from using them for other customers. However, according to the ECJ, this should not be decisive. The acquisition of civil law ownership and the resulting security, as well as the act of making the item available to the supplier, should already suffice as "own purposes" that argue against classification as an ancillary supply.