

## Case C-37/95

### Belgian State v Ghent Coal Terminal NV

(Reference for a preliminary ruling  
from the Belgian Hof van Cassatie)

(Value added tax — Sixth VAT Directive — Article 17 —  
Right to deduct — Adjustment of deductions)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 11 July 1996 I - 3  
Judgment of the Court (Second Chamber), 15 January 1998 ..... I - 17

### Summary of the Judgment

*Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Deduction of input tax — Deduction of tax payable on goods and services supplied for the purpose of investment work intended to be used in connection with taxable transactions — Impossibility for the taxable person to use the goods and services in question for the purposes intended — Irrelevant in regard to the right to deduct — Possibility of adjusting the deduction originally made under the conditions set out in Article 20(3) of the Sixth Directive (Council Directive 77/388, Arts 17(2) and 20(3))*

Article 17 of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes must be construed as allowing a taxable person acting as such to deduct the value added tax payable by him on goods or services supplied to him for the purpose of investment work intended to be used in connection with taxable transactions. The right to deduct remains acquired

where, by reason of circumstances beyond his control, the taxable person has never made use of those goods or services for the purpose of carrying out taxable transactions. A supply of investment goods during the adjustment period, where such occurs, may give rise to an adjustment of the deduction under the conditions set out in Article 20(3) of the directive.