

Case C-63/04

Centralan Property Ltd

v

Commissioners of Customs & Excise

(Reference for a preliminary ruling from the High Court of Justice of England and Wales, Chancery Division (United Kingdom))

(Sixth VAT Directive — Article 20(3) — Capital goods — Deduction of input tax — Adjustments of deductions — Immovable property — Disposal by means of two connected transactions, one exempt, the other taxable — Apportionment)

Opinion of Advocate General Kokott delivered on 17 March 2005 I - 11089

Judgment of the Court (Third Chamber), 15 December 2005 I - 11106

Summary of the Judgment

Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value-added tax — Deduction of input tax — Capital goods — Adjustment of the deduction initially made

— *Disposal before the end of the period of adjustment by means of two connected transactions, one exempt, the other taxable — Apportionment*
(Council Directive 77/388, Arts 5(1) and 20(3))

The system of deductions and adjustments provided for in Articles 17 to 20 of Sixth Council Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes is intended to establish a close and direct relationship between the right to deduct input tax and the use of the goods and services concerned for taxable transactions.

Article 20(3) of that directive, which governs the particular case of the supply of capital goods before the end of the period of adjustment, is to be interpreted as meaning that, where a 999-year lease over capital goods is granted to a person against the payment of a substantial premium and the freehold reversion in that property is transferred three days later to another person at a much lower price, and where those two transactions

- consist of a first transaction which is exempt and a second transaction which is taxable,
- and if those transactions, owing to the transfer of the right to dispose of those capital goods as owner, constitute supplies within the meaning of Article 5(1) of that directive,

the goods in question are regarded, until the expiry of the period of adjustment, as having been used in business activities which are presumed to be partly taxable and partly exempt in proportion to the respective values of the two transactions.

— are inextricably linked, and

(see paras 56, 73, 82, operative part)