Reports of Cases

Case C-96/22

CDIL – Companhia de Distribuição Integral Logística Portugal, S.A.
v
Autoridade Tributária e Aduaneira

(Request for a preliminary ruling
from the Supremo Tribunal Administrativo)

Judgment of the Court (Fifth Chamber) of 21 December 2023

(Reference for a preliminary ruling – Free movement of goods – Article 34 TFEU – Quantitative restrictions on importation – Measures having equivalent effect – National legislation limiting the quantity of cigarettes which can be released for consumption during a given period to a maximum corresponding to the monthly average of the quantities released for consumption in the preceding 12 months – Article 36 TFEU – Justification – Combating tax avoidance and abusive practices – Protection of public health – Taxation – Excise duties – Directive 2008/118/EC – Article 7 – Time at which excise duties become chargeable – Release for consumption of excise goods – Article 9 – Chargeability conditions and applicable rate of excise duty – Applicable quantitative limit exceeded – Excess – Application of the rate of excise duty in force on the date on which the declaration of discharge is lodged)

1. *Free movement of goods – Quantitative restrictions – Measures having equivalent effect – Concept – National legislation to prevent the release for consumption in excessive quantities of packets of cigarettes at the end of the year in anticipation of an increase in excise duty – Included*
(Art. 34 TFEU)

(see paragraphs 33-35)

2. *Free movement of goods – Quantitative restrictions – Measures having equivalent effect – National legislation to prevent the release for consumption in excessive quantities of packets of cigarettes at the end of the year in anticipation of an increase in excise duty – Whether permissible – Justification – Combating tax avoidance and abusive practices – Protection of public health – Limit – Measure appropriate for attaining those objectives – Principle of proportionality – Conditions under which applicable – To be determined by the national court*
(Art. 36 TFEU)

(see paragraphs 36-43, 51, operative part 1)

3. *Tax provisions – Harmonisation of laws – Excise duties – Directive 2008/118 – Applicable rate of excise – Rate in force on the chargeability date – Time of release for consumption – National legislation making the quantity of cigarettes exceeding the quantitative limit for release for consumption laid down by that legislation subject to the rate of excise duty in force on a date after the date of release for consumption – Not permissible*
(Council Directive 2008/118, Arts 7(1) and 9, first para.)

(see paragraphs 64, 65, 67, 69, operative part 2)

See the text of the decision.