



Press Summary

17 December 2025

Commissioners for His Majesty's Revenue and Customs (Respondent) v Hotel La Tour Ltd (Appellant)

[2025] UKSC 46

On appeal from: [2024] EWCA Civ 564

Justices: Lord Briggs, Lord Hamblen, Lord Leggatt, Lady Rose and Lord Richards

Background to the Appeal

The appellant (“**HLT**”) owned all the share capital of its subsidiary company Hotel La Tour Birmingham Ltd (“**HLTB**”), which operated a luxury hotel in Birmingham. HLT provided its subsidiary with management services. In mid-2015, HLT decided to construct and develop a new hotel in Milton Keynes. This purchase was financed partly by selling HLTB and partly by a loan from a bank. To assist with the sale of HLTB, HLT incurred professional fees of £382,900 plus £76,823 VAT. The issue in this appeal is whether HLT can reclaim the VAT it paid on those fees from HMRC.

VAT paid by a consumer who purchases goods or services is collected by the trader who adds VAT to the price of the goods or services (“**output transactions**”) and then accounts to HMRC for that VAT (“**output VAT**”). A trader who buys in goods and services itself to use in its business (“**input transactions**”) can deduct the VAT it incurs on those goods and services (“**input VAT**”) from the output VAT. When completing its VAT return, HLT deducted the £76,823 VAT on the professional fees from the VAT it had charged to customers in its taxable outputs from the hotel business. HMRC disallowed the deductions.

A trader’s business might comprise a mixture of some taxable and some non-taxable output transactions (either exempt or out of scope). In that case, it is important to determine whether an input transaction was linked to a specific transaction or instead with the trader’s overall business because that will determine the extent to which the input VAT is deductible. The test that has developed in the case law of the CJEU states that input VAT is deductible if it is “directly and immediately linked to” a taxable output transaction. Whether the direct and immediate link is with a specific transaction or with the trader’s overall business is for the national court to determine looking at all the circumstances. It is common ground in this appeal, leaving on one side the VAT grouping point described below, that (1) the management services that HLT provided over the years to HLTB was a taxable economic activity and the sale of HLTB was an extension of this economic activity and (2) the share sale was therefore within

scope but exempt from VAT under article 135 of the Principal VAT Directive, that is Council Directive 2006/112/EC (“PVD”) (implemented in the UK by Item 6 of Group 5 of Schedule 9 to the Value Added Tax 1994 (“VATA”).

The First-tier tax tribunal (“FTT”) which first heard HLT’s challenge to HMRC’s refusal to allow the deduction held that the direct and immediate link was between the professional fees and HLT’s taxable general economic activities and not with the exempt share sale. That meant that the VAT on the fees was deductible. This was for two reasons. First, the direct and immediate link test was modified in cases where the purpose of the share sale was to raise funds for the overall business such that the share sale is disregarded and the inputs are directly and immediately linked with the overall business. Second, the costs of input services were not incorporated in the price of the HLTB shares sold because the shares were sold for the best price achievable in the market. The Upper Tribunal (“UT”) broadly upheld the FTT’s analysis.

The Court of Appeal allowed HMRC’s appeal, holding that direct and immediate link was with the exempt share sale and not with HLT’s overall taxable business so the fees were not deductible. HLT now appeals to the Supreme Court.

Judgment

The Supreme Court unanimously dismisses the appeal. Lady Rose gives the judgment, with which Lord Briggs, Lord Hamblen, Lord Leggatt and Lord Richards agree.

Reasons for the Judgment

The Court of Appeal was correct to reject the FTT and UT’s application of the case law, in so far as they relied on the way in which the price of the shares in HLTB was fixed in order to reject the possibility of there being a direct and immediate link between the inputs and the share sale. The “costs component” concept in the direct and immediate link is not the test applied by the CJEU, despite its use of that phrase. There is no reason why one should examine whether the professional fees were included in the calculation of the price charged for the shares when one does not do so for any other kind of transaction [46] – [51].

The next question is whether, again leaving aside the VAT grouping point, it matters that the sale of the shares in HLTB was an exempt transaction rather than out of scope of the VAT regime. The case law establishes a clear distinction between transactions that are within the scope of the VAT regime but are exempt, and those that are out of scope. A transaction within scope is generally the transaction with which inputs have a direct and immediate link so that if that transaction is exempt, there is no deduction. However, if the transaction which consumes the inputs is out of scope then the inputs can be attributed to the overall business, so that the extent of their deductibility depends on the composition of that overall business as between taxable, out of scope and exempt transactions [52] – [70].

HLT submits that the CJEU has in recent cases erased the distinction between exempt share sales and out of scope share sales. It argues that exempt transactions must be treated in the same way as out of scope transactions in order to comply with the principle of fiscal neutrality. That means that VAT incurred on fees for services acquired to assist with a share sale are directly and immediately linked with the general business of the taxable person regardless of whether the share sale is exempt or out of scope. The Court rejected this submission. The CJEU case law does not establish that fiscal neutrality should be treated as a governing principle that

can justify ignoring the way the legislature has treated particular transactions as exempt or not [72] – [94].

The Court then considered HLT’s submission that the direct and immediate link test has been modified when it is applied to share sales to focus on the purpose of the transaction such that if the “exclusive reason” for the share sale is to fund the taxable business then it is directly and immediately linked with that business. The Court held that the CJEU has not departed from the earlier case law which firmly rejects the need to focus on the purpose of raising funds. Further, any such rule or modification of the test for share sales would be a recipe for confusion as to where the monies that a company uses for a certain project come from when the company’s receipts go into a common pot, as they usually do. It would also be an invitation for companies to manipulate their accounts or their correspondence in an attempt to make it appear that a share sale was or was not linked to a particular project depending on which suited its tax situation better.

On the facts found by the FTT and applying the correct test, the direct and immediate link was between the inputs and the sale of the shares in HLTB rather than the overall hotel business of HLT [94] – [110]. Since that share sale was exempt, the VAT paid on the professional fees was not deductible.

The final issue concerned VAT grouping, which is an option available to Member States under article 11 of the PVD, which was implemented in the UK by section 43 of the VATA. HLT and HLTB were in a VAT group for the purposes of section 43 at the time HLTB was sold. Section 43(1)(a) provides that any supply of goods or services by a member of the group to another member of the group “shall be disregarded”. HLT argues that since HLT and HLTB were within the same VAT group at the time HLT provided management services to HLTB, those services fall to be “disregarded”. Since it was those services that led to the share sale being treated as exempt economic activity rather than as out of scope of the VAT regime, disregarding them has the effect that the share sale is out of scope. That in turn means that the fees are directly and immediately linked to the overall business. The Court rejected this submission. There is therefore nothing in the CJEU’s case law that says that the effect of the VAT grouping is that supplies between the parent and its subsidiary are ignored for all purposes. Section 43 is designed to simplify and facilitate the collection of tax and not to confer exemption or relief from tax. Although they were members of the same VAT group, HLT and HLTB retained their individual identities. Economic activity was still taking place between them because HLT was engaged in managing its subsidiary and that amounts to economic activity for this purpose [111] – [121].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)