

ZRVP Wins Tax Dispute Worth Over Ten Million Lei



Zamfirescu Racoti Vasile & Partners (ZRVP) has obtained in court the annulment of the tax decision issued by the National Agency for Fiscal Administration (ANAF) for a company active in the aerosol market, specialized in the sale of technical and pure gases. The dispute concerned the field of excise products, and the decision of the Bucharest Court of Appeal, confirmed by the High Court of Cassation and Justice (ICCJ), is a landmark one given the legal complexity of the case and the high value of the subject matter of the dispute. The decision to admit the case was based, *inter alia*, on the infringement of two fundamental principles of tax law and tax procedure, and namely the principle of certainty of taxation and the principle of uniform application of tax law.

A mixed team of lawyers and tax consultants of the law firm Zamfirescu Racoti Vasile & Partners assisted and represented the client, a company active on the aerosol market, specialized in the sale of technical and pure gases, in the dispute concerning the annulment of the tax decision issued by ANAF, which had established tax liabilities (excise duties) for the company in an amount of more than ten million Lei for an alleged violation of the procedures for declaration to the customs authorities and transport between two tax warehouses of excise products, and the confiscation of excise products in an amount of approximately eight million Lei.

The judgment of the Bucharest Court of Appeal, most of it confirmed by the Supreme Court, annulled the tax decision, finding that for 2011 the tax liability was established in violation of the statute of limitations rules, and that for the remaining period under review, i.e. 2012-2016, the company complied with the excise legislation. Furthermore, the court pointed out that penalizing a company for alleged non-compliance, as a consequence of possible ambiguities in the tax legislation or inconsistent interpretations of the legislation between the different structures within the ANAF, is excessive and disproportionate.

“It is commendable that, after a difficult dispute, fought on several levels for almost six years, the courts have settled this dispute in our client's favor, correctly applying both the procedural provisions on limitation periods and the substantive law provisions on excise duties, a highly technical and relatively difficult area for lawyers in general. We do hope that, after several such rulings, both the Romanian legislator and the bodies called upon to apply the tax law will understand that, in taxation, there is a need for predictability, uniform application of legislation, proportionality and encouragement of the business environment through transparent tax policies,” said **Ovidiu Șerban**, ZRVP Partner.

The multidisciplinary team of lawyers and tax consultants was coordinated by [Ovidiu Șerban](#) (ZRVP Partner),

together with [Ioana Höckl](#) (ZRV Tax Partner). The team also included lawyers with solid experience in tax law: [Simona Oprea](#), Managing Associate ZRV, and client's of-counsel, Mr Constantin Marcu.