

Legislative Tracking



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29 April 2016

E-justice: Catalogue of arbitration cases

http://kad.arbitr.ru/PdfDocument/79ba62ec-c11c-4611-8dc4-c365a41b85fa/A63-11506-2014_20160411_Opredelenie.pdf

Russian Supreme Court rejects right of local tax authorities to control prices in transactions between related parties

Russian Supreme Court Ruling No. 308-KG15-16651 of 11 April 2016 on case No. A63-11506/2014 has been published. The ruling resolves a dispute between StavGazoborudovanie LLC (hereafter, the “Company”) and the tax authorities regarding the control of pricing in transactions with related parties during field tax audits conducted by local tax authorities.

According to the tax authorities, when transactions are concluded between related parties that do not correspond to the characteristics of controlled deals and the tax base for such transactions is calculated based on prices determined in accordance with Article 105.3 of the Russian Tax Code, the prices in such transactions may be subject to field and desk tax audits.

The Russian Supreme Court supported the position of the taxpayer, having established that the inspectorate overstepped its powers during the field tax audit. The Supreme Court indicated that the provisions of section V.1 of the Russian Tax Code gave the power to control prices used in transactions between related parties to bring them into line with market prices exclusively to the Federal Tax Service.

The Russian Supreme Court did not take a decisive position on the issue of auditing prices upon the detection of unjustified tax benefits, but did note that the fact that parties to a transaction are related is not proof in and of itself that a taxpayer has received unjustified tax benefits.

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