



Review of the Ruling of the Supreme Court of Kazakhstan on a Tax Dispute



On 08 February 2024, the Administrative Board of the Supreme Court issued a ruling on a tax dispute related to transactions with suppliers who, according to the tax authority, did not actually supply goods or render services to the audited taxpayer, as a result of which the taxpayer's expenses incurred in connection with transactions with these suppliers were excluded from deductions and VAT was excluded from offsetting*.

The Supreme Court did not uphold the tax authority's position, deeming the results of the contested tax audit unlawful in relevant part.

THE MAIN CONCLUSIONS OF THE SUPREME COURT:



The tax authority failed to disprove circumstances supporting the validity of VAT offsetting and deduction expenses submitted by the taxpayer during the tax audit. This failure constitutes a violation of the principle of presumption of reliability.

The principle of presumption of reliability stipulates that facts or information presented by a taxpayer are presumed to be true or valid until the tax authority provides sufficient evidence to refute this presumption (as per Article 15 of the Administrative Procedural Code of Kazakhstan).



The fact of non-delivery of goods and/or non-provision of services can only be established through a court decision invalidating a transaction between a supplier and a taxpayer.



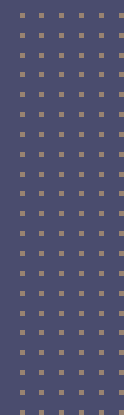
Circumstances such as suppliers' failure to fulfill tax reporting obligations, failure to reflect mutual settlements in tax reporting, absence of formalized labor relations with employees, or lack of material resources can merely be assumptions by the tax authority. They cannot serve as a legal basis for excluding expenses from deductions or VAT from offsetting.



Suppliers are independent entities in tax legal relations. The tax authority possesses the right to apply appropriate forms of tax control to verify their compliance with tax obligations and enforce tax obligations accordingly.

*Ruling No. 6001-23-00-6aπ/1905 of 08 February 2024.

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