

Construction - VAT group and recoverable input tax

A company entered into a contract with another group company to provide a development service. At the time of the contract both companies were in a VAT group. Part of the contract price was prepaid and a few days after the contract was entered to the appellant company left the group and became separately registered for VAT. The construction work started after the company left the group and was completed 2 years later. The company contended that all its input tax was deductible at the time that liability to output tax arose. Customs argued that the company could not recover the input tax because it arose after the company left the VAT group. The Tribunal allowed the company's appeal and agreed that the company was entitled to recover the whole of its input tax as all the inputs were used by the company to make taxable outputs.

The assessment was made in early 1998 for over £3m; nine years later the matter is still being resolved by litigation.

The case has now been heard in the High Court and the original decision reversed. Watch this space!