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VAT Refund and Tax Settlement: Burden of Proof on Fictitious Invoices

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ABSTRACT
This commentary examines the relationship between VAT refund claims and the settled tax audit report in light of Italian Supreme Court Order No. 28368/2026. The ruling clarifies that settling a tax audit report does not bar the taxpayer from claiming a refund of VAT paid twice on fictitious invoices, because the statutory relief covers only penalties and interest while the tax itself is paid in full. Under the EU principle of fiscal neutrality and domestic VAT rules, full payment preserves the refund action. Nevertheless, granting the refund remains subject to a strict burden of proof under Article 2697 of the Italian Civil Code, requiring concrete evidence that any risk of tax revenue loss for the Treasury has been permanently eliminated.

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VAT Refund and Tax Settlement: Burden of Proof on Fictitious Invoices

Analysis of Italian Supreme Court of Cassation, Civil Division, Order no. 28368 of 3 November 2026, on VAT refund eligibility after tax audit report settlement and the strict burden of proving zero revenue loss

CASE DOSSIER

COURT
Italian Supreme Court of Cassation

DECISION
Civil Division, Order no. 28368 of 3 November 2026

KEY PROVISIONS
Article 19 of Presidential Decree no. 633 of 26 October 1972 • Article 21 of Presidential Decree no. 633 of 26 October 1972 • Article 30-ter of Presidential Decree no. 633 of 26 October 1972

HOLDING
upholds the second ground of appeal, first ground dismissed; quashed and remanded to the Tax Court of Second Instance (Corte di Giustizia Tributaria) of Liguria, in a different composition

JEL: K34, H25 • EuroVoc: 1331, 4585, 1021 • Reading 10 min

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LEGAL PRINCIPLE / EDITORIAL HEADNOTE

Opting for the tax audit report settlement under Article 1 of Law Decree no. 119/2018 does not preclude a refund of VAT paid on fictitious transactions, but places on the taxpayer the concrete burden of proving that every risk of revenue loss for the Treasury has been eliminated.

KEY TAKEAWAYS

01 Compatibility with tax audit settlement
The settlement under Article 1 of Law Decree no. 119/2018 requires full payment of the VAT assessed and does not, in itself, bar a refund claim.

02 Invoice-based liability and VAT neutrality
The formal tax debt under Article 21(7) of Presidential Decree no. 633/1972 yields only upon concrete proof that the public treasury suffered no loss.

03 Strict evidentiary standard under Article 2697 Civil Code
Mere non-dispute of the double payment does not exempt the court from verifying the entire supply chain documentation.

04 Accounting control and two-year time-bar
Businesses and advisors must reconcile F24 payment receipts, VAT ledgers, and the two-year statutory time-bar under Article 30-ter before filing a claim.

ABSTRACT

This commentary examines the relationship between VAT refund claims and the **settled tax audit report** in light of Italian Supreme Court of Cassation, Civil Division, Order no. 28368/2026. The ruling clarifies that settling a tax audit report does not bar the taxpayer from claiming a refund of VAT paid twice on fictitious invoices, because the statutory relief covers only penalties and interest while the tax itself is paid in full. Under the **EU principle of fiscal neutrality** and domestic VAT refund rules, full payment preserves the refund action. Nevertheless, granting the refund remains subject to a strict **burden of proof** under Article 2697 of the Italian Civil Code, requiring concrete evidence that any **risk of tax revenue loss** for the Treasury has been permanently eliminated.

COMPARATIVE & EUROPEAN LEGAL FRAMING

Institutional & EU Nexus: As Italy's court of last resort in tax matters, the Italian Supreme Court of Cassation, Civil Division, enforces the EU VAT Directive's principle of fiscal neutrality alongside domestic VAT rules (Presidential Decree no. 633/1972). Where an invoice-based tax debt (*principio di cartolarità*) overlaps with a tax audit settlement, EU law allows recovery only once the risk of revenue loss is permanently neutralized. **Comparative Common Law Lens:** Unlike UK VAT law—where HMRC denies input tax on sham invoices and restricts unjust-enrichment refunds—or US sales tax systems lacking a harmonized credit-invoice chain, Italian law separates the supplier's tax payment, the VAT pass-through (*rivalsa*), and the customer's deduction into three autonomous relationships, making full supply-chain accounting proof decisive for restitution.

01. INTRODUCTION: ITALIAN SUPREME COURT ORDER NO. 28368/2026

In the accounting management of tax disputes, the relationship between a **VAT refund and a tax settlement** directly affects corporate liquidity. By Order no. 28368 of 3 November 2026, the Italian Supreme Court of Cassation, Civil Division,[1] examines the recovery of VAT paid twice on fictitious invoices. Opting for the **tax audit report settlement** does not close the door to restitution. Obtaining the refund still requires strict proof that **public tax revenue** is not at risk.

§ 2 Tax compliance teams often face a difficult operational choice. When facing challenges over fictitious transactions, a company may settle the audit report by paying the assessed VAT to avoid severe penalties. If the same VAT was already paid to the supplier, the cash outflow doubles. The ruling thus balances the **finality of the settlement** against the **prohibition of double taxation**.

§ 3 The decision draws two clear boundaries. On the substantive side, the statutory relief covers only penalties and interest, leaving recovery open when the tax is paid in full. On the evidentiary side, the Court imposes a strict standard on businesses and advisors. Showing the double payment in the company ledgers is not enough; the taxpayer must prove the **concrete absence of risk** for the Treasury.

02. PROCEDURAL BACKGROUND AND ARTICLES 19, 21, AND 30-TER OF THE ITALIAN VAT DECREE

2.1 — Facts of the Case, Double Payment, and Grounds of Appeal

§ 4 The dispute decided by Italian Supreme Court of Cassation, Civil Division, Order no. 28368 of 3 November 2026[1], stems from a **tacit denial of a VAT refund** by the Tax Authority. The company Noberasco S.p.A. had opted for the facilitated settlement of a **tax audit report** (*processo verbale di constatazione*) under Article 1 of Law Decree no. 119 of 23 October 2018. In support of its claim, the business alleged a **double payment** of the same VAT. The first payment was made to the supplier Care Research S.r.l. on the disputed invoices, while the second resulted from settling the audit report.

§ 5 The lower tax courts reached opposite conclusions. The Tax Court of First Instance (*Corte di Giustizia Tributaria*) of Genoa dismissed the taxpayer's claim. By Judgment no. 478/03/25 of 5 June 2025, the Tax Court of Second Instance (*Corte di Giustizia Tributaria*) of Liguria upheld the appeal. According to the regional panel, the undisputed **double tax burden** breached the **EU principles of neutrality** and proportionality, without any bar arising from the tax settlement.

§ 6 The Italian Revenue Agency then appealed to the Supreme Court on two grounds of **violation of law**. Under the first ground, it alleged a breach of Article 1 of Law Decree no. 119/2018, arguing that settlement precludes any subsequent refund. Under the second ground, it alleged a breach of Article 2697 of the Italian Civil Code due to lack of proof that revenue loss had been eliminated. The Supreme Court dismisses the first ground, upholds the second, and orders a **remand for a new examination** to the Liguria regional tax court.

2.2 — Substantive Reality and Invoice-Based Liability under Articles 19 and 21 of Presidential Decree no. 633/1972

§ 7 In VAT bookkeeping, disputed invoices trigger two core provisions of the Italian VAT Decree. Article 19 of Presidential Decree no. 633/1972 links input tax deduction to the actual execution of the pur-

chase. Paragraph 1 allows the deduction "of the tax relating to transactions actually carried out". Deductible amounts remain those "paid or payable by the taxable person, or charged to that person by way of VAT pass-through in relation to goods and services imported or purchased in the exercise of a business, trade, or profession".

§ 8 The statutory wording requires a **concrete economic transaction**. If the underlying transaction does not exist in reality, the recipient acquires no **right to deduct input VAT**, as reaffirmed by Italian Supreme Court of Cassation, Civil Division, Judgment no. 29278 of 20 October 2023[2]. This bar yields only to the purchaser's **objective good faith** or to a timely correction of the invoice. Otherwise, mere entry in the **purchases VAT ledger** does not validate the periodic deduction.

§ 9 On the opposite side operates the **principle of invoice-based liability** (*cartolarità*) under Article 21 of Presidential Decree no. 633/1972. Paragraph 7 provides: "If the supplier or service provider issues an invoice for fictitious transactions, or states consideration or tax in excess of the actual amount, the tax is payable for the entire amount indicated or corresponding to the invoice entries". According to Italian Supreme Court of Cassation, Civil Division, Order no. 24515 of 12 September 2024[3], the liability arises immediately. The obligation is triggered "upon delivery, dispatch, transmission, or making available of the invoice to the customer or client".

§ 10 Together, these rules create a **double financial pressure**. The Treasury claims the invoice-based tax from the issuer while denying deduction to the customer. Accounting departments must therefore check immediately whether **credit notes** (*note di variazione*) under Article 26 were issued within the statutory deadline. Once rectification is no longer possible, only a refund claim remains.

2.3 — Refund Claims under Article 30-ter of Presidential Decree no. 633/1972 and the Anti-Fraud Bar

§ 11 The **recovery of undue VAT** is governed specifically by Article 30-ter of Presidential Decree no. 633/1972. Paragraph 1 sets a **two-year statutory time-bar** (*decadenza*). The claim must be filed "within two years from the date of payment of the tax or, if later, from the day on which the legal prerequisite for restitution arose". Paragraph 2 governs tax finally assessed as undue and allows the supplier to act "within two years from the actual reimbursement to the customer or client of the amount paid by way of VAT pass-through". Applying this **statutory trigger date**, Italian Supreme Court of Cassation, Civil Division, Order no. 14582 of 17 May 2026[4], starts the two-year period from the completion of the **settlement procedure**.

§ 12 However, the bar in Paragraph 3 remains central. The provision states that "restitution of the tax is excluded where payment occurred in a context of tax fraud". In administrative practice, counting twenty-four months from the **F24 tax payment** is therefore not enough. Businesses must also verify whether closing the audit maintains a **fraud-based preclusion** or permits recovery by eliminating **revenue loss**.

03. VAT REFUND AND TAX SETTLEMENT: STRUCTURAL COMPATIBILITY UNDER THE FIRST GROUND

§ 13 In accounting practice, settling a tax audit report requires immediate payment of the **assessed VAT**. The Italian Revenue Agency argued that this choice barred any subsequent claim to refund the settled VAT. In dismissing the first ground, Italian Supreme Court of Cassation, Civil Division, Order no.

28368 of 3 November 2026[1], rejects that restrictive reading. The Order draws a sharp line between the effects of the **tax audit report settlement** and the substantive right to recover undue tax.

§ 14 The reasoning starts from the text of Article 1 of Law Decree no. 119/2018. Paragraphs 1 and 5 limit the relief strictly to penalties and interest. By contrast, the self-assessed tax must be paid in full by the statutory deadline. There is thus no **partial write-off of the tax**. The Court also notes that waiving part of the VAT would breach **European Union law**, as previously held regarding the tax amnesty under Article 12 of Law no. 289/2002.

§ 15 The operational consequences for companies are immediate. Having made **full payment**, a taxpayer seeking a refund does not revoke its adherence to the settlement. The Order also draws a parallel with **pre-litigation tax settlement tools**, which allow **subsequent VAT pass-through recovery** once the assessment is settled. Precisely this full payment makes the refund action compatible with the **principle of fiscal neutrality**.

§ 16 This framework also clarifies the interplay with Article 30-ter(3) of Presidential Decree no. 633/1972. The exclusion for fraudulent contexts does not turn an audit settlement into an automatic bar to recovery. As already recognized by Italian Supreme Court of Cassation, Civil Division, Order no. 14582 of 17 May 2026[4], restitution remains available even after settlement procedures, provided all harm to public revenue is ruled out. A company that settles an audit report to avoid penalties therefore retains the right to challenge any double taxation.

SETTLEMENT EFFECT ON PENALTIES AND NEUTRALITY OF THE TAX PAID

The tax audit report settlement under Article 1 of Law Decree no. 119/2018 eliminates penalties and interest while requiring full payment of the VAT. Precisely because no discount applies to the principal tax, a subsequent refund claim does not amount to revoking the settlement and protects fiscal neutrality where double payment is proven.

04. PROVING THE ELIMINATION OF REVENUE LOSS: CASE LAW AND ACCOUNTING PRACTICE

4.1 — Autonomy of VAT Relationships and Evidentiary Burden under Article 2697 of the Italian Civil Code

§ 17 Once the preliminary bar is cleared, the dispute shifts to evidence. Upholding the Revenue Agency's second ground, Italian Supreme Court of Cassation, Civil Division, Order no. 28368 of 3 November 2026[1], applies Article 2697 of the Italian Civil Code strictly. Each taxable transaction generates **three autonomous relationships**: between the Treasury and the supplier for payment, between the parties for VAT pass-through, and between the Treasury and the customer for deduction. However, the autonomy of these layers meets a firm limit in the **principle of neutrality**. EU law requires concrete proof that any **risk of tax revenue loss** has been excluded.

§ 18 The Liguria court's ruling fails precisely on this verification. The Tax Court of Second Instance had granted the refund by treating double taxation as undisputed and fiscal harm as removed. The Supreme Court censures that step as **unsubstantiated reasoning**, lacking evidentiary support. As examined by Antonio Sansone in his article on fictitious transactions and the burden of proof in tax assessments[D1],

at the assessment stage the Tax Authority bears the initial evidentiary burden. In a post-settlement refund action, the **burden of proof** shifts entirely onto the claimant company.

> ***Settling the audit report opens the door to recovering double-paid VAT, but only rigorous documentary proof across the entire supply chain can turn a double cash outflow into an enforceable credit.***

§ 19 Quashing and remanding the case restores central importance to **accounting records**. Displaying the double outflow to the supplier and the Treasury in internal ledgers is not sufficient. The claimant must produce **objective evidence** on the final fate of the tax, proving that no deduction or offset remains actionable along the chain.

4.2 — Precedents on Fictitious Transactions and Tax Settlement Procedures

§ 20 To identify which evidence truly rules out fiscal harm, recent case law must be compared. The absence of an immediate cash shortfall does not justify either deduction or refund. As clarified by Italian Supreme Court of Cassation, Civil Division, Judgment no. 29278 of 20 October 2023[2], even in circular zero-balance transactions the risk persists as long as the invoice remains usable. Italian Supreme Court of Cassation, Civil Division, Order no. 6634 of 20 March 2026[5], follows the same line. Mere payment of output VAT by the issuer does not replace the **formalized cancellation** of fictitious invoices.

§ 21 The same strictness governs over-invoicing involving interposed entities. Recalling the restorative function of invoice-based liability, Italian Supreme Court of Cassation, Civil Division, Order no. 24515 of 12 September 2024[3], sets out the standard release condition. A **final disallowance** of the recipient's deduction is required, coupled with full payment of tax and penalties. Nor does the reduced penalty regime under Article 6(6) of Legislative Decree no. 471/1997 apply. That relief covers only tax-rate errors on real exchanges, never **objectively fictitious transactions**.

§ 22 Verifying revenue harm also requires a unified reading of corporate accounts. A court cannot isolate a single payment while ignoring the overall accounting picture. A **global assessment of circumstantial evidence** under Article 2729 of the Italian Civil Code is needed, as highlighted by Andrea Vesci on presumptive proof and synthetic evaluation[D2]. Procedurally, a criminal **dismissal order** (*archiviazione*) under Article 408 of the Italian Code of Criminal Procedure has no binding effect in tax litigation under Article 654 of the same Code. A company cannot therefore replace accounting proof with non-binding criminal outcomes.

§ 23 Finally, a complete model of successful restitution emerges from Italian Supreme Court of Cassation, Civil Division, Order no. 14582 of 17 May 2026[4]. In that case, an importer had regularized fictitious foreign costs through voluntary disclosure under Article 5-quater of Law Decree no. 167/1990. Having paid tax, interest, and penalties, the company recovered the VAT originally paid at customs. Precisely the full completion of the voluntary disclosure had eliminated every risk of revenue loss. A favourable outcome thus depends on the **completeness of settlement proof** placed in the record.

§ 24 Comparing these five rulings offers clear guidance to accounting practices. When the taxpayer documents the final closure of the entire tax position, the **principle of neutrality** prevails again over **invoice-based liability**.

RULING / AUTHORITY	HOLDING	CORE PRINCIPLE
Supreme Court of Cassation, Civil Div., Order no. 28368 of 3 November 2026	Partial / Remand	Audit report settlement is compatible with a VAT refund, but strict proof under Art. 2697 Civil Code of zero revenue loss is required.
Supreme Court of Cassation, Civil Div., Judgment no. 29278 of 20 October 2023	Denied (deduction)	Circular fictitious transactions: no deduction without timely correction; Art. 6(6) Legislative Decree no. 471/1997 does not apply.
Supreme Court of Cassation, Civil Div., Order no. 24515 of 12 September 2024	Denied (refund)	Invoice-based liability on over-invoicing: refund requires proof of final risk elimination through recovery from the recipient.
Supreme Court of Cassation, Civil Div., Order no. 6634 of 20 March 2026	Quashed & Remanded	Mere output VAT payment by the fictitious issuer is insufficient; formalized cancellation and autonomy from criminal findings are required.
Supreme Court of Cassation, Civil Div., Order no. 14582 of 17 May 2026	Granted (refund)	Completion of voluntary disclosure eliminates revenue risk for customs VAT and triggers the two-year refund time-bar.

4.3 — How to Prove the Absence of Revenue Loss to Obtain a VAT Refund

§ 25 To recover VAT after a tax settlement, the taxpayer must produce the **F24 payment receipts showing full payment**, the **VAT ledgers**, and the filed VAT returns. It is also necessary to prove the **permanent neutralization of the deduction** on the disputed transaction, documenting that no other operator can use the invoice as a tax credit.

§ 26 From an operational standpoint, coordinating a VAT refund and a tax settlement requires an **exact accounting reconciliation** before filing the claim. The accounting department must separate VAT paid to the supplier or at customs from sums paid under the **settlement procedure**. The **two-year statutory time-bar** under Article 30-ter(1) of Presidential Decree no. 633/1972 must then be checked. Where the right to restitution arises upon completion of the settlement, the two-year period runs from that closing date rather than from the original payment. Collecting **periodic VAT settlement** statements and proof of full tax recovery therefore becomes decisive.

OPERATIONAL PROFILE	VOLUNTARY DISCLOSURE (NO. 14582/2026)	AUDIT REPORT SETTLEMENT (NO. 28368/2026)
Subject of the claim	VAT paid at customs upon importation (excluding settlement sums).	Double VAT burden between supplier pass-through and audit settlement.
Proof of revenue risk	Completion of the procedure with full payment of tax, interest, and penalties.	Burden under Art. 2697 Civil Code on specific elements; mere non-dispute is insufficient.
Two-year start date	From completion of the voluntary disclosure procedure.	Assessment under Art. 30-ter(1) from the occurrence of the refund trigger.
Documentary audit	Customs bills of entry and payment receipts for the settled invitation.	Purchase invoices, F24 receipts for the audit report, and proof of supplier tax status.

4.4 — Critical Remarks: Obiter Dicta, Practical Distinctions, and the Unresolved Issue of the Defaulting Supplier

§ 27 A careful reading of the Order reveals a **subjective asymmetry** compared to the cited precedents. The Court borrows the rule developed for a supplier that issued a fictitious invoice. In the actual case, however, the claim came from the customer taxed twice, first via pass-through and then in the settlement. Extending this evidentiary rule to the customer marks the **main practical novelty**, while leaving a significant evidentiary doubt open.

§ 28 On the level of distinguishing, a sharp gap also emerges with the customs precedent. In the imports covered by voluntary disclosure, initial VAT was paid at customs without an intermediary domestic supplier. In domestic transactions subject to VAT pass-through, the first payment instead passes through the supplier. Consequently, whereas voluntary disclosure barred recovery of the settlement sums while refunding customs VAT, here the claim targets the payment tied to closing the audit report.

§ 29 A **critical borderline case** thus remains unresolved: what happens if the supplier has become insolvent or never remitted the VAT collected by pass-through? It would be strained to attach an **automatic fraud preclusion** under Article 30-ter(3) of Presidential Decree no. 633/1972 to the settlement. Yet it would be equally inaccurate to presume that the customer's payment alone zeros out the loss. In this author's view, the **burden under Article 2697 of the Italian Civil Code** on remand should not demand impossible proof regarding a third party's internal books. If the company proves full restitution of its own deduction through the settlement, a distinction must be drawn between the excess actually collected twice by the State and any omission attributable solely to the supplier.

§ 30 In the remand before the Liguria tax court, the outcome will turn on coordinating Article 1 of Law Decree no. 119/2018, Article 2697 of the Italian Civil Code, and Article 30-ter of Presidential Decree no. 633/1972. Only **verifiable proof** that the risk has been removed can overcome the **invoice-based liability** of Article 21(7).

SCOPE OF EXCULPATORY PROOF IN DOMESTIC PASS-THROUGH TRANSACTIONS

While in customs VAT full payment under a settlement closes a direct bilateral relationship between taxpayer and Treasury, in domestic invoicing fiscal risk also depends on the supplier's conduct. Businesses must therefore gather all available records on the accounting and tax-return treatment of the disputed transaction before pursuing refund litigation.

05. CONCLUSIONS

§ 31 The framework outlined by Italian Supreme Court of Cassation, Civil Division, Order no. 28368 of 3 November 2026[1], confirms that a VAT refund and a tax settlement are not mutually exclusive. Settling the tax audit report reduces penalties and interest to zero while requiring **full payment of the tax**. Full payment therefore keeps the **refund claim** open. Effective recovery nonetheless remains subject to strict proof of the **absence of revenue loss** for the State Treasury.

§ 32 For businesses and accounting departments, the ruling dictates clear operational caution. In the remand proceedings before the Liguria panel, as in any claim under Article 30-ter of Presidential Decree no. 633/1972, claimants must move beyond mere assertions of a **double cash outflow**. Only a **complete documentary file** containing F24 payment receipts, VAT ledgers, and evidence of deduction neutralization allows **fiscal neutrality** to be enforced without evidentiary dismissal.

AUTHORITIES & REFERENCES

Table of Authorities & References Cited

I. STATUTORY PROVISIONS

Article 19 of Presidential Decree no. 633 of 26 October 1972 – Rules governing the right to deduct input VAT in relation to transactions actually carried out.

Article 21 of Presidential Decree no. 633 of 26 October 1972 – Invoicing obligations and invoice-based tax liability for fictitious transactions.

Article 30-ter of Presidential Decree no. 633 of 26 October 1972 – Restitution of undue VAT, two-year statutory time-bar, and exclusion in contexts of tax fraud.

II. CASE LAW CITED

[1] **Italian Supreme Court of Cassation, Civil Division, Order no. 28368 of 3 November 2026** Holds that opting for the tax audit report settlement under Article 1 of Law Decree no. 119/2018 does not bar a VAT refund where the tax is paid in full, but requires strict proof by the taxpayer under Article 2697 of the Italian Civil Code. OUTCOME: upholds the second ground of appeal, first ground dismissed; quashed and remanded to the Tax Court of Second Instance (Corte di Giustizia Tributaria) of Liguria, in a different composition. PARA.: compatibility of the settlement with the principle of neutrality and concrete elimination of the risk of revenue loss.

[2] **Italian Supreme Court of Cassation, Civil Division, Judgment no. 29278 of 20 October 2023** Confirms the non-deductibility of VAT in circular objectively fictitious transactions, ruling out Article 6(6) of Legislative Decree no. 471/1997 absent timely correction. OUTCOME: dismissed. PARA.: combined application of Articles 19 and 21(7) of Presidential Decree no. 633/1972 and limits on deduction and refund.

[3] **Italian Supreme Court of Cassation, Civil Division, Order no. 24515 of 12 September 2024** Reaffirms the obligation to pay VAT stated on over-invoiced fictitious transactions, absent proof of timely elimination of revenue risk. OUTCOME: dismissed with costs awarded against the appellant. PARA.: invoice-based liability under Article 21(7) of Presidential Decree no. 633/1972 and final recovery from the recipient.

[4] **Italian Supreme Court of Cassation, Civil Division, Order no. 14582 of 17 May 2026** Grants a refund of VAT paid at customs on over-invoiced imports following completion of voluntary disclosure, with the two-year time-bar running from that date. OUTCOME: dismissed with costs awarded against the appellant. PARA.: elimination of fiscal risk through full payment under the settlement procedure and trigger date for restitution.

[5] **Italian Supreme Court of Cassation, Civil Division, Order no. 6634 of 20 March 2026** Rules out that mere payment of output VAT by the fictitious issuer suffices to eliminate revenue risk without formalized neutralization of the invoice. OUTCOME: upheld; quashed and remanded to the Tax Court of Second Instance (Corte di Giustizia Tributaria) of Lombardy, in a different composition. PARA.: formalized cancellation of the accounting document and lack of preclusive effect from criminal dismissal.

III. LEGAL SCHOLARSHIP CITED

[D1] Antonio Sansone (Metodo Giuridico), Operazioni inesistenti e onere della prova nell'accertamento [Fictitious Transactions and Burden of Proof in Tax Assessments]. Examines the allocation of the evidentiary burden at the assessment stage in fictitious-transaction cases, contrasted with its full shift onto the taxpayer in refund claims.

[D2] Andrea Vesci (Metodo Giuridico), Prova presuntiva tributaria: l'analisi atomistica è vizio di legge [Presumptive Proof in Tax Law: Atomistic Analysis as Error of Law]. Reconstructs the rule of overall assessment of circumstantial evidence under Article 2729 of the Italian Civil Code, cited by symmetry regarding the global verification of revenue risk.

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