

# **The court admitted the opinion of experts on JTT Computer SA**

15.06.2009

The court approved a report prepared by a team of experts from the Department of Investment and Enterprise Valuation, University of Szczecin, to the effect that there was a strong correlation between the imposition of the obligation to pay and the worsening financial situation of JTT Computer SA and it can be identified to be at least one of the main causes of bankruptcy of the company in January 2004.

By order of the District Court in Wroclaw, I Department of Civil Affairs in the first instance, concerning the action by MCI Management SA, Wroclaw, against the Treasury (claiming damages for the bankruptcy of JTT Computer SA), the opinion of experts from the Department of Investment and Enterprise Valuation, University of Szczecin, was drawn up and delivered to the parties, in which the experts respond to the issues raised by the Court.

The experts agreed, inter alia, that there existed a strong causal link between the imposition of the obligation to pay and the deterioration of the financial situation of JTT Computer SA that can be identified as at least one of the main causes of bankruptcy in January 2004. On the other hand, the experts did not find the operations of the company concerning failure to create provisions for the risk associated with the imposition of the obligation to pay the said amount PLN 10.5M had contributed to the worsening of the financial situation of the company. Similarly, it is not possible to ascertain that in the field of organizational changes any "unfavorable investment decisions" had been taken.

As part of the extension of the opinion on questions concerning the impact of the macroeconomic developments on the financial position and the bankruptcy of JTT Computer SA, the authors stated that "any situation in the global economy, regional and local, as well as business industry prosperity affects the conditions of businesses operation by commercial entities; they comprise a uniform environment for all companies." While, the element which disturbed the competitiveness was an individual decision of the tax authority, which resulted in rendering the company incapable to operate on the market on a normal basis.

Through the findings made, the authors of the opinion indicated that the value of shares of JTT Computer SA held by the plaintiff, as on 31 March 2000, was PLN 26,300,000. At the same time, the authors of the opinion ascertained that if JTT Computer had not been encumbered with the obligation to pay PLN 10.5M by way of additional tax liability, plus interest, and assuming the company would continue to develop in the years 2000-2004, at a rate comparable to other companies within the same industry and of similar size, in the years 2000-2004, the plaintiff could hypothetically receive the dividend on shares in JTT Computer SA Company in the maximum amount PLN 12,923 thousand.

The parties were prescribed the period of one month to lodge objections to the above opinion. Evidence from the expert opinion shall be assessed by the Court in accordance with the principle of free evaluation of evidence expressed in the provision of Article 233 Â§ 1 of the Code of Civil Procedure, whereby the court assesses the credibility and strength of evidence according to its discretion, based on a comprehensive consideration of the collected material.

The JTT Computer SA Company was one of the largest Polish distributors and manufacturers of computer equipment, employing around 80 people. The company was the parent company of a capital group, which included, among others, JTT Computer j.v. Sp. z o.o. and Centrum Komputerowe Adax. In 2004, the company declared bankruptcy due to its poor financial situation, caused by unlawful decisions of tax authorities. The action is pending in court for compensation in respect of losses incurred and the expected benefits lost by MCI as a shareholder of the company.