

RWANDA / JUDGMENT

INTERTRADE WAREHOUSE Ltd vs SOMDIAM Ltd

RCOMAA00039/2024/CA

COURT

Court of Appeal

DECIDED

20 December 2024

CASE / FILE NUMBER

RCOMAA00039/2024/CA

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INTERTRADE WAREHOUSE Ltd vs SOMDIAM Ltd

- Source: Amategeko
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- Date: 2024-12-20
- Case/document no.: RCOMAA00039/2024/CA
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Text

Page 1

INTERTRADE WAREHOUSE Ltd vs SOMDIAM Ltd [Rwanda URUKIKO RW'UBUJURIRE – RCOMAA00039/2024/CA (Ngagi, P.J.) 20 Ukuboza 2024] Itegeko rigenga ibibimenyetso – ibimenyetso bicukumbuye – ibicuruzwa biri mu bubiko bwemewe n'ikigo cy'imisoro n'amahoro – Mu kugaragaza ingano y'ibicuruzwa byinjiye cyangwa byasohotse mu bubiko(warehouse) bwemewe n'ikigo cy'imisoro n'amahoro (RRA), hashingirwa ku bigaragazwa na sisitemu ya gasutamo ya RRA kuko niyo igenzura ububiko bw'ibicuruzwa biva ku cyambu bije mu Rwanda cyangwa se ibicuruzwa bigomba kunyura mu Rwanda bijyanwa ahandi Incamake y'ikibazo: Uru rubanza SOMDIAM Ltd irega Intertrade Warehouse Ltd mu Rukiko rw'Ubucuruzi irusaba kuyitegeka kuyishyura amadolari ibihumbi mirongo ine na bitandatu na magana ane na mirongo ine (46,440USD) ahwanye n'imifuka igihumbi na mirongo inane (1,080) ya Indian brown sugar yakiriye mu bubiko bwayo ariko mu gihe cyo kuyisohora ikabura, indishyi mbonezamusaruro, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. Intertrade Warehouse Ltd yireguye ivuga ko itemera ko yabitse imifuka ibihumbi cumi na bibiri n'ijana na mirongo itandatu (12.160),

ko hagendewe kuri uwo mubare w'imifuka, haba harabayeho kubara gusa hashingiwe kuri arrival notices na T1, kandi yaragaragaje mu buryo burambuye ko hari arrival notice na T1 bibarwa na SOMDIAM Ltd nk'ibyapakuruwe mu bubiko bwayo, ariko sisitemu ya RRA itagaragaza neza aho byapakururiwe. Urukiko mu rubanza RCOM 00939/2022/TC rwemeje ko, ikirego cya SOMDIAM Ltd gifite ishingiro; ko Intertrade Warehouse Ltd iha SOMDIAM Ltd agaciro k'imifuka igihumbi na mirongo inane (1.080) yaburiye mu bubiko bwayo, gahwanye n'amadolari ibihumbi mirongo ine na bitandatu na magana ane na mirongo ine (46,440USD); rutegeka Intertrade Warehouse Ltd guha SOMDIAM Ltd indishyi zo gutinda kwishyura zihwanye hiyongereyeho n'agaciro k'ibyakozwe ku rubanza. Intertrade Warehouse Ltd yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi ivuga ko itakiriye ibicuruzwa birenze ibyo yasohoye, bityo ko itari kwiye gutegekwa kwishyura imifuka igihumbi na mirongo inane (1.080). Yanasabye Urukiko gutegeka SOMDIAM Ltd kuyiha amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka kubera kuyishora mu manza z'amaherere. SOMDIAM Ltd yireguye mu bujurire ivuga ko nta shingiro bufite, kuko itagaragaza ko yahaye SOMDIAM Ltd ibicuruzwa byose yayibikije. Isobanura ko Intertrade Warehouse Ltd yasinyiye ko yakiriye imifuka 12.160 ariko mu gihe cyo kubikuzwa ibicuruzwa ikayihira imifuka 11.080 gusa, ko Raporo yakozwe n'uhagarariye RRA i Rusizi, igaragaza ko imifuka yose yakorewe imenyekanisha ikabitswa Intertrade Warehouse Ltd ingana n'ibihumbi cumi na bibiri n'ijana na mirongo itandatu (12.160), ko kandi Intertrade Warehouse Ltd yishyuje konteneri 23 aho kuba 21. Mu gusoza isaba Urukiko gutegeka INTERTRADE WAREHOUSE Ltd kuyiha indishyi zo kutayisubiza ibicuruzwa byayo ku gihe, hiyongereyeho igihembo cya Avoka n'agaciro k'ibyakozwe ku rubanza. SOMDIAM Ltd yajuririye Urukiko rw'Ubujurire, Urukiko rwabanje gusuzuma inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire yatanzwe na Intertrade Warehouse Ltd maze rwemeza mu rubanza rubanziriza urundi ko rufite ububasha. Mu rubanza mu mizi SOMDIAM Ltd ivuga ko Urukiko Rukuru rw'Ubucuruzi rwemeje ko muri Intertrade Warehouse Ltd hinjiye konteneri eshatu aho kuba eshanu rwirengagije inyandiko zakozwe na Intertrade Warehouse Ltd zakira ibicuruzwa zirimo avis d'arrivée na avis de réception z'imodoka (delivery note), numero za Seal ya RRA ishyirwa ku modoka kandi igacibwa rimwe gusa igeze aho ipakuririra, numero ya Plaque y'imodoka yazanye umuzigo, numero ya T1, na numero ya WH7 ndetse na quantité y'umuzigo bazanye, kuko nta handi wabikura utabonye umuzigo.

Page 2

Intertrade Warehouse Ltd yiregura ivuga ko ubujurire bwa SOMDIAM Ltd nta shingiro bufite, kuko ibyo ijuririra Urukiko Rukuru rw'Ubucuruzi rwabisobanuye mu rubanza rujuririrwa, ko kandi nubwo SOMDIAM Ltd ivuga ko muri Intertrade Warehouse Ltd hinjiye konteneri eshanu ariko ko itagaragaza ukuntu muri Kivu Warehouse Ltd hasohotse konteneri zirindwi kandi zigasohokera kuri S 5459. Urukiko mu rubanza RCOMAA00039/2024/CA rwasuzumye ikibazo nyamukuru cyo Kumenya niba konteneri z'isukari za SOMDIAM Ltd zinjiye muri Intertrade Warehouse Ltd kuri S 5459/TZDL/2021 ari eshanu cyangwa eshatu hashingiwe ku bimenyetso byatanzwe, rwemeza ko hinjiye konteneri eshatu (3), bityo ko ubujurire bwa SOMDIAM Ltd bufite ishingiro. Incamake y'icyemezo: Mu kugaragaza ingano y'ibicuruzwa byinjiye cyangwa byasohotse mu bubiko(warehouse) bwemewe n'ikigo cy'imisoro n'amahoro (RRA), hashingirwa

ku bigaragazwa na sisitemu ya gasutamo ya RRA kuko niyo igenzura ububiko bw'ibicuruzwa biva ku cyambu bije mu Rwanda cyangwa se ibicuruzwa bigomba kunyura mu Rwanda bijyanwa ahandi. Bityo, ntabwo "avis d'arrive" y'ibicuruzwa yafatwa nk'ikimenyetso kamarampaka kuko ikorerwa hanze ya sisitemu bikaba byoroshye kwibeshya cyangwa gukora uburiganya. Ubujurire bufite ishingi. Amategeko yashingiweho: Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezambano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 12, 111 Imanza zifashishijwe: Urubanza RS/INJUST/SOC 00003/2021/CA, haburana Mugisha Alex na BANQUE POPULAIRE DU RWANDA Plc rwaciwe n'Urukiko rw'Ubujurire ku wa 26/10/2023. Urubanza I. IMITERERE Y'URUBANZA [1] Intertrade Warehouse Ltd ni sosiyete ikora akazi ko kubikira abacuruza ibicuruzwa byabo mu gihe biba bitegereje gusora cyangwa guhindurirwa icyerekezo kugira ngo bijyanwe ahandi, haba hanze y'igihugu (re-export) cyangwa kubihindurira ubundi bubiko (transfer to another warehouse). [2] SOMDIAM Ltd ivuga ko yagiranye amasezerano na Intertrade Warehouse Ltd yo kuyibikira ibicuruzwa mu bubiko bugenzurwa na Gasutamo (RRA) maze ikajya ibitwara muri Congo (RDC) uko ibonye umukiriya, ko hari inyandiko za RRA zitandukanye zigaragaza ko SOMDIAM Ltd yinjije mu bubiko bwa Intertrade Warehouse Ltd imifuka mu bihe bitandukanye, ubundi ikagira iyo isohora, ariko ikaba yaraje kubara igasanga mu mifuka yabikije yarabuzemo ingana n'imifuka igihumbi na mirongo inane (1.080). Ibyo byatumye irega Intertrade Warehouse Ltd mu Rukiko rw'Ubucuruzi irusaba kuyitegeka kuyishyura amadolari ibihumbi mirongo ine na bitandatu na magana ane na mirongo ine (46,440USD) ahwanye n'imifuka igihumbi na mirongo inane (1,080) ya Indian brown sugar yakiriye mu bubiko bwayo ariko mu gihe cyo kuyisohora ikabura, indishyi mbonezamusaruro, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [3] Intertrade Warehouse Ltd yireguye ivuga ko itemera ko yabitse imifuka ibihumbi cumi na bibiri n'ijana na mirongo itandatu (12.160), ko hagendewe kuri uwo mubare w'imifuka, haba harabayeho kubara gusa hashingiwe kuri arrival notices na T1, kandi yaragaragaje mu buryo burambuye ko hari arrival notice

Page 3

na T1 bibarwa na SOMDIAM Ltd nk'ibyapakuruwe mu bubiko bwayo, ariko sisitemu ya RRA itagaragaza neza aho byapakururiwe. [4] Mu rubanza RCOM00939/2022/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 23/01/2023, rwemeje ko: Ikirego cya SOMDIAM Ltd gifite ishingi ; Ko Intertrade Warehouse Ltd iha SOMDIAM Ltd agaciro k'imifuka igihumbi ma mirongo inane (1.080) yaburiye mu bubiko bwayo, gahwanye n'amadolari ibihumbi mirongo ine na bitandatu na magana ane na mirongo ine (46,440USD); Intertrade Warehouse Ltd iha SOMDIAM Ltd indishyi zo gutinda kwishyura zihwanye n'amafaranga miliyoni imwe (1.000.000 Frw) hiyongereyeho n'agaciro k'ibyakozwe ku rubanza gahwanye n'ibihumbi magana arindwi na makumyabiri (720.000Frw). [5] Intertrade Warehouse Ltd yajuririye icyo cyemezo ivuga ko itakiriye ibicuruzwa birenze ibyo yasohoye, bityo ko itari kwiye gutegekwa kwishyura imifuka igihumbi ma mirongo inane (1.080). Yanasabye Urukiko gutegeka SOMDIAM Ltd kuyiha amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka kubera kuyishora mu manza z'amaherere izi neza ko ibyo iregera atari byo. [6] SOMDIAM Ltd yireguye ku bujurire bwa Intertrade Warehouse Ltd ivuga ko nta shingi bufite, kuko itagaragaza ko yahaye SOMDIAM Ltd ibicuruzwa byose yayibikije.

Isobanura ko Intertrade Warehouse Ltd yasinyiye ko yakiriye imifuka 12.160 ariko mu gihe cyo kubikuzwa ibicuruzwa ikayihira imifuka 11.080 gusa, ko Raporo yakozwe n'uhagarariye RRA i Rusizi ku wa 29/03/2022, igaragaza ko imifuka yose yakorewe imenyekanisha ikabitswa Intertrade Warehouse Ltd ingana n'ibihumbi cumi na bibiri n'ijana na mirongo itandatu (12.160), ko kandi Intertrade Warehouse Ltd yishyuye konteneri 23 aho kuba 21. Mu gusozza isaba Urukiko gutegeka Intertrade Warehouse Ltd kuyihira indishyi zo kutayisubiza ibicuruzwa byayo ku gihe, hiyongereyeho igihembo cya Avoka n'agaciro k'ibyakozwe ku rubanza. [7] Mu rubanza RCOMA00123/2023/HCC rwaciye n'Urukiko Rukuru rw'Ubucuruzi ku wa 26/06/2024, rwemeje ko : Ubujurire bwa Intertrade Warehouse Ltd bufite ishingiro ; Intertrade Warehouse Ltd yakiriye konteneri eshatu zikomoka kuri S5459, ko kandi zose SOMDIAM Ltd yazicuruje muri Congo ; Ibimenyetso SOMDIAM Ltd yatanze bitagaragaza ko isukari yishyura Intertrade Warehouse Ltd yaburiye mu bubiko bwayo ; Nta sukari Intertrade Warehouse Ltd igomba kwishyura SOMDIAM Ltd; Urubanza RCOM00939/2022/TC rwajuririye ruhindutse ; SOMDIAM Ltd yishyura Intertrade Warehouse Ltd amafaranga y'u Rwanda ibihumbi ijana (100.000 Frw) y'ikurikiranarubanza, n'ibihumbi magana atanu (500.000Frw) y'igihembo cy'Avoka agenwe mu bushishozi bw'Urukiko yo ku rwego rw'ubujurire, ikayisubiza n'ibihumbi mirongo ine (40.000 Frw) y'ingwate y'amagarama yatanze irega. [8] SOMDIAM Ltd yajuririye uru Rukiko, ubujurire bwayo bwandikwa kuri RCOMAA00039/2024/CA. Urubanza rwaburanishijwe ku wa 02/12/2024, hasuzumwa inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire yatanzwe na Intertrade Warehouse Ltd, aho yavugaga ko nubwo raporo yatanzwe na RRA yashyizwe muri sisitemu ku wa 31/05/2024, saa kumi n'iminota 26, iburanisha ryapfundikiwe saa yine n'igice, ariko ko ababuranyi bose bari bazi ko iyo raporo iri bushyirwe muri sisitemu, ko kandi mu iburanisha ry'urubanza Urukiko rwari rwasabye ababuranyi bombi kuzagira

Page 4

icyo bayivugaho mu gihe izaba ishizwe muri sisitemu, ariko SOMDIAM Ltd ntiyagira icyo iyivugaho igamije kujurira, bityo ko ubujurire bwayo butari mu bubasha bw'uru Rukiko. [9] Mu rubanza rubanziriza urundi rwasomwe ku wa 09/12/2024, Urukiko rushingiye ku ingingo ya 52, igika cya 2, agace ka 4°, y'Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko iteganya ko Urukiko rw'Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciye n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare, (...) 4° iyo imanza zaciye hashingiwe ku kimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza kandi hatabayeho gusubukura iburanisha”, rwemeje ko ubujurire bwa SOMDIAM Ltd buri mu bubasha bw'Urukiko rw'Ubujurire kuko mu bika bya 59 na 60 by'urubanza rujuririrwa RCOMA00123/2023/HCC, Urukiko Rukuru rw'Ubucuruzi rwashingiye kuri raporo yakozwe na RRA ku wa 30/05/2024 yashyikirijwe urwo Rukiko nyuma yo gupfundikira iburanisha. Rwemeza ko urubanza mu mizi ruzaburanishwa ku wa 10/12/2024. [10] Ku wa 10/12/2024, urubanza rwaburanishijwe mu ruhame, SOMDIAM Ltd ihagarariye na Vicky PABARY yunganiye na Me Cyiza Clément, naho Intertrade Warehouse Ltd ihagarariye na Kayiranga Faustin yunganiye na Me Nsengiyumva Abel, ababuranyi bemeranywa n'Urukiko ko hazasuzumwa ikibazo cyo kumenya niba konteneri zinjiye muri Intertrade

Warehouse Ltd ari eshanu cyangwa eshatu hashingiwe ku bimenyetso byatanzwe, kumenya niba Intertrade Warehouse Ltd yategekwa kwishyura SOMDIAM Ltd indishyi mbonezamusaruro zikomoka ku gihombo ikomeje kuyiteza n'icyo kumenya niba indishyi zo gushorwa mu manza, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka bisabwa mu rubanza bifite ishingiro. [11] Mu myanzuro no mu miburanire ya SOMDIAM Ltd ivuga ko Urukiko Rukuru rw'Ubucuruzi rwemeje ko muri Intertrade Warehouse Ltd hinjiye konteneri eshatu aho kuba eshanu rwirengagije inyandiko zakozwe na Intertrade Warehouse Ltd zakira ibicuruzwa zirimo avis d'arrivée na avis de réception z'imodoka (delivery note), numero za Seal ya RRA ishyirwa ku modoka kandi igacibwa rimwe gusa igeze aho ipakuririra, numero ya Plaque y'imodoka yazanye umuzigo, numero ya T1, na numero ya WH7 ndetse na quantité y'umuzigo bazanye, kuko nta handi wabikura utabonye umuzigo, ko hirengagijwe na raporo yo ku wa 29/03/2022 yakozwe n'umukozi wa RRA igaragaza ko muri Intertrade Warehouse Ltd bahasanze imifuka 125 y'isukari ya SOMDIAM Ltd ndetse na raporo igaragara mu nyandikomvugo y'iperereza ryakozwe n'Urukiko Rukuru rw'Ubucuruzi aho abakozi ba RRA bagaragaje ko kwibeshya ukora avis d'arrivée ari ibintu bidashoboka, ko wabiha igipimo cya 0% naho kwibeshya gukora IM7 byo bishoboka, ko rero Urukiko Rukuru rw'Ubucuruzi rutagombaga gushingira kuri raporo RRA yakoze ku wa 30/05/2024, kuko yakozwe hashingiwe gusa ku makuru yo muri sisitemu ya Gasutamo, kandi na SOMDIAM Ltd yemera ko arimo ikosa, aho umu déclarant yibeshye akibagirwa guhuza amakuru y'ibyari kuri terrain n'ibiri muri system. Ivuga kandi ko isaba guhabwa indishyi mbonezamusaruro zikomoka ku gihombo Intertrade Warehouse Ltd ikomeje kuyiteza, hamwe n'indishyi zo gushorwa mu manza n'amafaranga y'ibyagiye ku rubanza. Intertrade Warehouse Ltd yiregura ivuga ko ubujurire bwa SOMDIAM Ltd nta shingiro bufite, kuko ibyo ijuririra Urukiko Rukuru rw'Ubucuruzi rwabisobanuye mu bika bya 53-59 by'urubanza rujuririrwa RCOMA00123/2023/HCC, ko kandi nubwo SOMDIAM Ltd ivuga ko muri Intertrade Warehouse Ltd hinjiye kontineri eshanu ariko ko itagaragaza ukuntu muri Kivu Warehouse Ltd hasohotse konteneri zirindwi kandi zigasohokera kuri S 5459. Ivuga kandi ko ibyereke indishyi mbonezamusaruro SOMDIAM Ltd isaba ko ari ikirego gishya kitagomba gusuzumwa kuri uru rwego, isoza isaba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA 1. Kumenya niba kontineri z'isukari za SOMDIAM Ltd zinjiye muri INTERTRADE WAREHOUSE Ltd kuri S 5459/TZDL/2021 ari eshanu cyangwa eshatu hashingiwe ku bimenyetso byatanzwe

Page 5

[12] Abahagarariye SOMDIAM Ltd bavuga ko haje kontineri 10 za SOMDIAM Ltd zivuye Dar-es-Salaam zigiye muri Kivu Warehouse Ltd, ko izo kontineri zarimo Indian brown sugar, ko zageze kuri Kivu Warehouse Ltd basanga yuzuye noneho bakora change of destination kontineri eshanu zijyanwa muri Intertrade Warehouse Ltd izindi eshanu zishyirwa muri Intertrade Warehouse Ltd, ariko ko mu gihe cyo gusohora izo kontineri basanze muri Intertrade Warehouse Ltd harimo kontineri eshatu gusa, kandi yarakiriye eshanu, hanagaragaramo n'imifuka 125 ya Indian brown sugar ya SOMDIAM Ltd, bityo ko Urukiko Rukuru rw'Ubucuruzi rwakoze ikosa kwemeza ko nta kigaragaza ko muri Intertrade

Warehouse Ltd hinjiye konteneri eshanu, kuko rwirengagije avis d'arrivées eshanu, delivery note, numero za Seal ya RRA ishyirwa ku modoka kandi igacibwa rimwe gusa igeze aho ipakuririra, numero ya Plaque y'imodoka yazanye umuzigo, numero ya T1, na numero ya WH7 ndetse na quantité y'umuzigo bazanye, kuko nta handi wabikura utabonye umuzigo. [13] Basobanura ko mu miburanire ya SOMDIAM Ltd yagaragaje ko umu déclarant yibeshye akibagirwa gukora IM7 ya konteneri ebyiri (2) zashyizwe muri Intertrade Warehouse Ltd, aho mu mwanya wo gukora IM7 za konteneri eshanu (5) yakoze eshatu (3) gusa, naho Intertrade Warehouse Ltd ikaburana ivuga ko umukozi wayo yibeshye agakora avis d'arrivées eshanu (5) aho gukora eshatu (3) zinjiye muri Intertrade Warehouse Ltd, ko aha ari ho Urukiko rwashingiye rubaza abakozi ba RRA mu iperereza rwakoze ngo basobanure ukwibeshya gushoboka n'ukwibeshya kudashoboka hagati y'ibyo abahagarariye SOMDIAM Ltd bavuga ko bibeshye bakibagirwa gukora IM7 n'ibyo abahagarariye Intertrade Warehouse Ltd bavuga ko bibeshye bagakora avis d'arrivées eshanu (5), maze bakemeza ko kwibagirwa gukora IM7 bishoboka, kandi ko kubikosora muri systeme byakorwa igihe cyose, naho ku bijyanye no gukora avis d'arrivées umukozi wa RRA yahamije ko uko kwibeshya kudashoboka kubera amakuru ashyirwa kuri avis d'arrivée . [14] Bavuga kandi ko nk'uko byemejwe n'abakozi ba RRA, SOMDIAM Ltd isanga ibyo Intertrade Warehouse Ltd ivuga ko umukozi wayo yibeshye agakora avis d'arrivées za kontineri eshanu (5) kandi hinjiye eshatu (3) gusa bidashoboka kubera impamvu zikurikira : Kuba bitari gushoboka ko umukozi wa Intertrade Warehouse Ltd yibeshya mu gukora avis d'arrivées ngo ayishyireho amakuru ahuye neza n'ayari kuri T1, kuri delivery note no kuri confirmation of transit termination, ko ayo makuru ari numero za Seal ya RRA douane ishyirwa ku modoka kandi igacibwa rimwe gusa igeze aho ipakuririra, numero ya Plaque y'imodoka yazanye umuzigo, numero ya T1, na numero ya WH7 ndetse na quantite y'umuzigo bazanye, ko rero ibi nta handi wabikura utabonye umuzigo, ko kandi ibi bimenyetso nta handi bari kubikura iyo bataza kubona imodoka, kuko bihura n'ibiri kuri T1, kuri delivery note no kuri confirmation of transit termination; Kuba umukozi wa Intertrade Warehouse Ltd atari kwibeshya ngo n'umukozi wa RRA yibeshye avuge ko cancellation ya T1 yarangiriye muri Intertrade Warehouse Ltd kandi itaharangiye ; Kuba umukozi wa Intertrade Warehouse Ltd atari kwibeshya, ngo umukozi wa RRA ndetse n'umu déclarant bese bibeshye basinye kuri avis d'arrivées y'umuzigo batigeze babona; Kuba umukozi wa Intertrade Warehouse Ltd atari kwibeshya mu gihe cyo gukora avis d'arrivées ngo yongere yibeshye asinyira abashoferi kuri delivery note igaragaza ko ikamyo bari batwaye yagejeje umuzigo muri Intertrade Warehouse Ltd; Kuba umukozi wa Intertrade Warehouse Ltd atari kwibeshya mu gukora avis d'arrivées ngo abone N° za Seal zihuye n'iza amakamyo avugwa ngo na Plaque z'izo modoka zihure, kuko ntaho yari kubikura atabibonye, cyane ko ayo makuru umuntu ayandika ari kuyareba.

Page 6

Kuba uko kwibeshya kudashoboka kuko iyo hakozwe change of destination umudeclarant atari kongera gusubira inyuma ngo yinjize umuzigo wakorewe change of destination ngo umukozi wa RRA abimwemerere. Kuba uko kwibeshya kudashoboka kuko Intertrade Warehouse Ltd itabasha

kugaragaza aho izo kamyo (camions) zaba zararengeye kuko zitigeze zigera muri Kivu Warehouse ; Kuba umukozi wa Intertrade Warehouse Ltd atari kwibeshya akora avis d'arrivées ngo yongere yibeshye yishyura umuzigo, nk'uko EBM Intertrade yakoreye SOMDIAM Ltd ibigaragaza. Bityo ko hashingiwe kuri ibi bisobanuro bitari gushoboka ko umukozi wa Intertrade Warehouse Ltd yibeshya, ariko ko nk'uko byemejwe n'umukozi wa RRA kwibeshya hakabaho kwibagirwa gukora IM7 bishoboka, na cyane ko n'Urukiko rwemeje ko hari IM7 yakozwe nyuma iriho imifuka igihumbi na mirongo inane (1080) ihuye na za kontineri ebyiri (2), ariko Intertrade Warehouse Ltd ikazanga. [15] Basobanura ko icyo SOMDIAM Ltd inenga mu rubanza RCOMA00123/2023/HCC ijuririra, ari uko Urukiko mu gufata icyemezo rwirengagije ko Intertrade Warehouse Ltd mu kwiregura kwayo yemeye ko umukozi wayo yakoze avis d'arrivées zihwanye na kontineri (container) eshanu (5), ntirugire icyo ruvuga kuri izo avis d'arrivées, kandi RRA yaragaragaje ko uko kwibeshya kudashoboka ngo hakorwe avis d'arrivées eshanu (5) kandi yarakiriye eshatu (3) gusa, rukanirengagiza ko INTERTRADE WAREHOUSE Ltd yemera ko abashoferi bari batwaye amakamyo avugwa uko ari atanu (5) yabasinyiye delivery note nk'ikimenyetso umushoferi ahabwa cy'aho yagejeje umuzigo, ngo nabwo yibeshye. Ko ikindi rwirengagije kigaragaza ko Intertrade Warehouse Ltd yakiriye iyo mizigo, ari uko yishyuye ububiko bwayo nk'uko bigaragazwa na INVOICE igaragara kuri cote ya 46 y'urubanza rwa RCOM00939/2022/TC. [16] Bakomeza bavuga ko urwo Rukiko rwirengagije raporo zakozwe na RRA. Basobanura ko amakuru ya raporo ya mbere ya RRA aturuka kuri raporo yo ku wa 29/03/2022, yakozwe n'umukozi wayo wasanze imifuka 125 muri Warehouse ya SOMDIAM Ltd ntagaragarizwe nyirayo, ariko mu iburanisha ry'urubanza RCOMA00123/2023/HCC, Intertrade Warehouse Ltd ivuga ko yari iy'undi muburanyi, mu gihe mu iburanisha ryo ku rwego rubanza yemeraga gutanga iyo mifuka n'iramuka igaragarirwe IM7 ijyanye na yo. Ko raporo ya kabiri ari iyavuye mu iperereza aho RRA yemeje ko kwibeshya ukora avis d'arrivées ari ibintu bidashoboka, ko wabiha igipimo cya 0% naho kwibeshya gukora IM7 byo bishoboka, aha akaba ari ho ikibazo gishingiye kuko iyo wibeshya muri sisitemu ibyo wibeshyeho ntubikuremo bigumamo. [17] Bavuga ko raporo ya gatatu ari raporo RRA yakoze ku wa 30/05/2024, ko iyo raporo ntacyo yari kumarira Urukiko, kuko yakozwe hashingiwe gusa ku makuru yo muri sisitemu ya Gasutamo, kandi na SOMDIAM Ltd yemera ko arimo ikosa, aho umu déclarant yibeshye akibagirwa guhuza amakuru y'ibyari kuri terrain n'ibiri muri system. Ko raporo yari kugira icyo imarira Urukiko ari iyari guhuza ibyabaye muri system n'ibyabaye kuri terrain ikabigereranya, cyangwa audit igasuzuma irengero rya konteneri ebyeri ziburanwa, RRA ikagaragaza ko izo konteneri zaba zaraburiye muri Kivu Warehouse cyangwa muri Intertrade Warehouse cyangwa se niba zaragurishijwe na SOMDIAM Ltd, ko ariko RRA mu gukora raporo ivuga ko yakuruye amakuru yo muri system gusa, akaba ari yo ishingiraho ifata umwanzuro, ariko ikibagirwa guhuza amakuru yo kuri terrain n'ayo muri system, ko ari yo mpamvu SOMDIAM Ltd yatanze ikirego. [18] Basobanura ko Urukiko Rukuru rw'Ubucuruzi rwirengagije raporo yo ku wa 29/03/2022, yakozwe n'umukozi wa RRA igaragaza ko muri Intertrade Warehouse Ltd basanzemo imifuka 125, iyo mifuka ikaba yari iya SOMDIUM Ltd kuko itagaragaje undi nyirayo, kandi mu mikorere yayo, WAREHOUSE igenzurwa na Gasutamo ku buryo nta muzigo n'umwe wemerewe kubamo udafite nyirawo, cyangwa ikintu RRA itazi. Ko rero ubwo umukozi wayo yajyaga muri Intertrade Warehouse Ltd yasanze imifuka 125 ya SOMDIAM Ltd nk'uko raporo yavuzwe haruguru

ibigaragaza, kandi imizigo bemera ko

Page 7

bakiriye yari yarangije gusohoka, hagasigaye iyo mifuka 125, Umuyobozi wa Intertrade Warehouse Ltd akaba yaremeraga kuyiyiha ari uko ikoze IM7 ijyanye na S5459 byinjiriyeho, ariko ko ibyo bitashobotse ngo kuko hari habaye ikosa ryo kugaragaza ko imizigo yose yo kuri iyi S 5459 yasohotse. [19] Basobanura kandi ko Intertrade Warehouse Ltd itigeze igaragaza undi wari nyiri izo sukari utari SOMDIAM Ltd, haba mu nama ntegururubanza ndetse no mu iburanisha ryo ku rwego rwa mbere. Ko mu iburanisha ryo ku rwego rwa kabiri ari bwo yavuze ko izo sukari zari iz'undi mucuruzi ariko itigeze igaragaza izina, itanagaragarije ikimenyetso cy'uko yazinjije, maze Urukiko rushingiye ku mvugo z'Umuyobozi wa Intertrade Warehouse Ltd zigaragara mu rubanza rujuririrwa, aho yavuze ko iyo mifuka 125 itari iya SOMDIAM Ltd ahubwo yari iy'indi sosiyete, kandi itarigeze igaragaza izo mvugo, haba mu igenzura ryakozwe n'umukozi wa RRA ubwo yakoraga raporo yo ku wa 29/03/2022, ntinashobore kugaragaza izina ry'uwo mucuruzi wundi. Urukiko ruvuga ko SOMDIAM Ltd itagaragaza ikimenyetso cya etiquette (unique identifier) zashyizwe ku mifuka 125 y' isukari yari mu bubiko, kandi bene izo étiquettes zishyirwaho na nyiri Warehouse, ari na we wazicungaga kugira ngo ashobore gutandukanya imizigo y'abo abikiye. Byongeye kandi ko iyo etiquette itari ngombwa mu gihe ifite avis d'arrivées ifatwa nk'amasezeramo mpamo yo kubikirwa ibicuruzwa. [20] Bakomeza bavuga ko amakuru yo muri system ya Gasutamo yari gutanga igisubizo gihamye ari uko SOMDIAM Ltd itari kuba ifite izindi sukari muri Kivu Warehouse Ltd, ngo kuko icyo gihe yari kujya kuyisohora muri system bikanga bitewe nuko nta sukari yari kuba irimo, ariko ko kuba yari isanzwe ifite izindi sukari byatumye hakorwa ikosa cyangwa habaho kwibeshya kutagaragara, kwaje kugaragara ari uko bagiye gusohora indi mizigo bakaza gusanga yashizemo. [21] Bavuga na none ko Urukiko rwagaragaje ko isukari yose yari yaziye kuri déclaration S5459 yarangiye, rukibeshya rugaragaza ko imifuka y'isukari yose yabaye importés kuri S5459 yose yoherejwe muri DRC, rwibagiwe ko nyuma yo kwibeshya, umukozi wunganira abacuruzi yasohoye ibintu muri system agakuramo kontineri zirindwi (7) zo kuri S5459, ariko bigaragara ko hasohotsemo eshanu (5) zo kuri S5459, izindi ebyiri (2) zigasohokera ku yindi declaration ifite S56 kuko SOMDIAM Ltd yari ifite indi mizigo muri Kivu Warehouse Ltd. Ko ariko Urukiko ntacyo rwavuze ku makuru arebana nuko hakozwe avis d'arrivées na delivery note. Bityo ko abahagarariye Intertrade Warehouse Ltd batabasha kuvuguruza ibimenyetso byatanze na SOMDIAM Ltd bigaragaza ko muri Intertrade Warehouse Ltd hinjiye kontineri eshanu (5) aho kuba eshatu (3) zemejwe n'Urukiko mu rubanza rujuririrwa. [22] Abahagarariye Intertrade Warehouse Ltd bavuga ko haje konteneri 10 za SOMDIAM Ltd zivuye Dar-es-Salaam zigiye muri Kivu Warehouse Ltd ziri kuri S 5459, eshatu (3) muri zo zoherezwa muri Intertrade Warehouse Ltd izindi zirindwi (7) zishyirwa muri Kivu Warehouse Ltd kandi ko izo konteneri uko ari zirindwi zashyizwe muri Kivu Warehouse Ltd zoherejwe muri Congo nk'uko bigaragazwa na raporo yakozwe na RRA ku wa 30/05/2024. Bavuga kandi ko nubwo SOMDIAM Ltd ivuga ko muri Intertrade Warehouse Ltd hinjiye kontineri eshanu ariko ko itagaragaza ukuntu muri Kivu Warehouse Ltd hasohotse konteneri zirindwi kandi zigasohokera kuri S 5459, cyane ko ibyo bavuga ko muri konteneri zirindwi zasohokeye muri Kivu Warehouse

Ltd hari zibiri zinjiriye kuri S56, ko mu rubanza rujuririrwa basobanuye ko iyo S56 SOMDIAM Ltd ivuga ari impimbano, ivuga ko itayiburanisha. [23] Bavuga kandi ko raporo ya RRA yo ku wa 30/05/2024, ari ikimenyetso simusiga kigaragaza ukuri kw'uko ibintu byagenze, ko kandi kuva mu bika bya 53-59 by'urubanza rujuririrwa RCOMA 00123/2023/HCC, Urukiko Rukuru rw'Ubucuruzi rwasobanuye neza ko SOMDIAM Ltd itagaragaje uburyo Intertrade Warehouse Ltd yakiriye kontineri zindi ebyiri (2) ivuga. [24] Bakomeza bavuga ko ikibazo Somdian Ltd igaragaza, Urukiko rwagisobanuye mu gika cya 56 cy'urubanza rujuririrwa, aho rwavuze ko rusanga ikindi kigaragaza ko kuba muri raporo handitse ko basanze mu bubiko bwa Intertrade Warehouse Ltd imifuka 125 ya SOMDIAM Ltd atari ikimenyetso kigaragaza ko konteneri ebyiri (2) na zo zakiriwe na Intertrade Warehouse Ltd, ari uko mu iburanisha

Page 8

déclarant yabwiye Urukiko ko icyagaragazaga ko ari iya SOMDIAM Ltd ari uko umukozi wayo yabibabwiye, akaba ariko nta mvugo y'uwo mukozi igaragara muri iyo raporo, ndetse Urukiko rwashaka kumwumva rukamubura, mu gihe umuyobozi wa Intertrade Warehouse Ltd we agaragaza ko yari iy'indi sosiyete, kandi ko ibyo ababuranira SOMDIAM Ltd babwiye Urukiko ko yariho étiquette yayo nta kimenyetso babitangiye. Basoza bavuga ko ubujurire bwa SOMDIAM Ltd nta shingiro bufite. UKO URUKIKO RUBIBONA [25] Impaka ziri muri uru rubanza zishingiye ku kumenya niba Urukiko Rukuru rw'Ubucuruzi rwarakoze ikosa ryo kwemeza ko SOMDIAM Ltd yinjije kontineri eshatu z'isukari muri Intertrade Warehouse Ltd, aho kuba eshanu SOMDIAM Ltd yaregeye. Mu rwego rwo gukemura izi mpaka, Urukiko rurasengura ibimenyetso byatanze n'impande zombi kugira ngo rusuzume niba hari konteneri ebyeri z'isukari Intertrade Warehouse Ltd igomba kwishyura SOMDIAM Ltd. [26] Ingingo ya 12, igika cya 1, y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ibikurikira : "Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda." [27] Nk'uko byagiye bisobanurwa mu manza zitandukanye zirimo n'urubanza RS/INJUST/RSOC00003/2023/CA, iyi ngingo ya 12 yumvikanisha ko umuburanyi utanze ikirego mu Rukiko aba afite inshingano ikomeye yo kugaragaza ibimenyetso bihamya nta shiti ko ibyo aregera ari ukuri, iyo atabashije kubigaragaza, ikirego cye nta shingiro gihabwa. Mu yandi magambo, uwatangije urubanza agomba kuba afite ibimenyetso bidashidikanywaho bihamya neza ko ibyo avuga ari ukuri. [28] Ku birebana n'uru rubanza, dosiye igaragaza ko SOMDIAM Ltd ari yo yatanze ikirego ku rwego rwa mbere kandi niyo yajuriye kuri uru rwego. Igaragaza kandi ko impande zombi zemeranya ko mu mwaka wa 2021, SOMDIAM Ltd yohereje konteneri icumi z'isukari zivuye Dar-es-Salaam zigiye muri Kivu Warehouse, ko izo konteneri zinjiye kuri S 5459, ko kandi zageze muri Rwanda New Brite Company Ltd yunganira SOMDIAM Ltd igasaba Gasutamo ko konteneri eshanu zoherezwa muri Intertrade Warehouse Ltd (change of destination), ikabyemererwa. Icyo zitumvikanaho ni uko SOMDIAM Ltd ivuga ko izo kontineri eshanu z'isukari zabikijwe muri Intertrade Warehouse Ltd, naho yo ikavugaga ko kontineri eshatu ari zo yabitse, izindi zirindwi zibikwa na Kivu Warehouse. [29] Dosiye y'urubanza igaragaramo raporo yakozwe na RRA yashyizweho umukono na Komiseri wa za Gasutamo ku wa 30/05/2024, ifite umutwe ugira uti : "Gutanga amakuru yo muri system ya

Gasutamo kuri S 5459/TZDL/2021 na S23/41KV/2021”. Muri iyo raporo RRA yasobanuye ko bashingiye ku makuru bakura muri sisitemu (system) bakoresha bakira ibicuruzwa basanze tariki ya 22/04/2021 harakozwe imenyekanishamusoro rya Gasutamo ry’isukari ya company yitwa SOMDIAM Ltd ingana n’imifuka 5,400 y’ibiro 50 buri umwe, igomba gutwarwa n’imodoka 10, buri konteneri y’imodoka yatwaye imifuka 540, iyivana ku cyambu cya Dar-es-Salaam iyijyana mu bubiko bwa Kivu Warehouse bugenzurwa na Gasutamo. Isobanura kandi ko nyuma y’uko ibicuruzwa bigeze mu Rwanda tariki ya 14/05/2021, uwunganira umucuruza ari we New Brite Company Ltd yasabye ko kontineri eshanu zoherezwa mu bubiko bwa Intertrade Warehouse Ltd, abyemererwa na Gasutamo nk’uko bigaragara kuri customs applications No 857, 859,856,858 na 855/41KV/2021. Yasobanuye kandi ko bagendeye kubigaragara muri sisitemu ya Gasutamo, uhagarariye umucuruza ari we New Brite Clearing Agency yohereje kontineri eshatu zigizwe n’imifuka 1,620 mu bubiko bwa Intertrade Warehouse Ltd aho koherezayo kontineri eshanu nk’uko yari yabisabye, bikaba bigaragara kuri S23/41KV/2021, bivuze ko kontineri ebyeri zasigaye mu bubiko bwa KIVU nk’uko sisitemu ibigaragaza.

1 Reba igika cya 21 cy’urubanza RS/INJUST/SOC 00003/2021/CA rwaciwe ku wa 26/10/2023, haburana MUGISHA Alex na BANQUE POPULAIRE DU RWANDA Plc.

Page 9

[30] Muri iyo raporo, RRA yakomeje isobanura ko bamaze kugenzura uko imenyekanishamusoro S 5459/TZDL/2021 yinjije ibicuruzwa mu bubiko bwombi (Intertrade na Kivu), basanga ibicuruzwa byose byari kuri ririya menyeshakanishamusoro byarasohotse nk’uko yabigaragaje mu mbonerahamwe iri muri iyo raporo. Yasobanuye na none ko umugereka wa mbere w’iyi raporo ugaragaza ko isukari ya SOMDIAM Ltd yavuye mu bubiko bwa KIVU ijya mu bubiko bwa Intertrade Warehouse Ltd ari imifuka 1,620. Umugereka wa kabiri ugaragaza ko isukari ya SOMDIAM Ltd yavuye mu bubiko bwa Kivu Warehouse ijya muri Repubulika iharanira Demokarasi ya Congo ari kontineri zirindwi (7) n’uko zagiye zisohoka. Isoza igaragaza ko konteneri eshatu (3) zagiye muri Intertrade Warehouse Ltd nazo zoherejwe muri Congo bikozwe na SOMDIAM Ltd hakoreshejwe imenyekanishamusoro rikurikira : R 208, R 210, R 211, R 212 na R 236/41IT/2021. [31] Dosiye igaragaramo inyandiko yo ku wa 29/03/2022 yiswe “Report on meeting dated on 29th/03/2022 about the problem of indian brown sugar of SOMDIAM Ltd (TIN 108996839) stored in Intertrade warehouse in 2021”. Muri iyo raporo umukozi wa RRA yagaragaje ko akurikije arrival notices zigaragaza ko kuva ku wa 06/03/2021 kugeza ku wa 06/07/2021, muri Intertrade Warehouse Ltd hinjiye imifuka y’isukari 12.160 yari muri konteneri 23, ko kuri S 5459 TZDL 2021 hinjiye konteneri eshanu zirimo imifuka 2,700. Iyo raporo igaragaza kandi ko hakurikijwe sisitemu ya RRA bigaragara ko mu imenyekanishamusoro S 5459 TZDL 2021 ryakozwe kuri IM 7 S 23 41 KV 2022 muri Intertrade Warehouse Ltd hinjiye imifuka 1,620, ko imifuka y’isukari igaragara muri arrival notices n’igaragara muri sisitemu harimo ikinyuranyo cy’imifuka 1,080, ko SOMDIAM Ltd yasabye iyo mifuka Intertrade Warehouse Ltd iyisubiza ko isukari yayohereje yarangiye. Igaragaza kandi ko umuyobozi wa Intertrade Warehouse Ltd yavuze ko bakiriye konteneri eshatu aho kuba eshanu, ko kandi hari arrival notices ebyeri batemera kuko zakozwe mu

kwibeshya. Inagaragaza ko umudekarara (déclarant) wa SOMDIAM Ltd we yavuze ko kuri S 5459 TZDL 2021 muri Intertrade Warehouse Ltd hinjiye konteneri eshanu zirimo imifuka 2,700 ariko aribeshya mukudekarara yandika konteneri eshatu zirimo imifuka 1,620. Iyo raporo igaragaza na none ko ku wa 04/01/2022, bagiye muri Intertrade Warehouse Ltd basangamo imifuka 125 y'isukari ariko ko Intertrade Warehouse Ltd itemeye kuyiha SOMDIAM Ltd2. [32] Dosiye igaragaramo kandi inyandikomvugo y'iperereza ryakozwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 24/05/2024. Muri iyo nyandikomvugo ku rupapuro rwa 20, habajijwe ikibazo kijyanye no kumenya niba bishoboka ko avis d'arrivée igaragaza ko Intertrade Warehouse Ltd yakiriye konteneri eshanu hanyuma IM 7 ikerekana ko yakiriye eshatu, Umukozi wa RRA yasubije muri aya magambo : “ikigoye kumvikana ariko bireba Warehouse kuvuga ko mbitse 5 kandi 7 zasohokeye ahandi hantu haba harimo kwiya cyangwa kwiya bisha” Ku rupapuro rwa 21 habajijwe ikibazo cyo kumenya ukuntu ibicuruzwa byasohokeye aho byari bigenewe mbere, habazwa niba ayo makosa ashoboka, hanyuma umukozi wa RRA asubiza muri aya magambo : “amakosa twavuze ashoboka kuri WH 7, ariko tukavuga ko bitamanuka ngo bigere kuri avis d'arrivée, ariko urujijo rukaza na none mu gupakira aho utabitse.”

2 On S 5459 TZDL 2021 declared IM 7 S 23/41KV 2022 to Intertrade with 1, 620 sacks. The Total quantity assessed in Intertrade warehouse is 11,080 sacs. The difference between the total quantity based on arrival notices and assessed in Intertrade warehouse is 12,160 sacks. So based on this difference the clearing agent have declared IM 7 46 41 KV 2021 with the 1,080 sacks to cover that difference. The Company representative said that when they have come to take this 1,080 sacks, the Intertrade storekeeper have refused said that the stock has finished. The Intertrade manager said that after a deep analysis they have realized that all stocks of sugar received on behalf of SOMDIAM Ltd have been given to them except 2 trucks transferred to other warehouse. This means that they have received 21 consignments out of 23 sent to their warehouse. The difference between the total quantity based on arrival notices and the total quantity based on assessed declarations, he said that they are 2 arrival notices which are not accepted by the Intertrade because were generated by error of their staff. The clearing agent said that the problem is on S 5459 TZDL 2021 where he sent the five containers means 2, 700 sacks and by error he declared S 23 41 KV 2021 with the 1,620 sacks instead of 2,700 sacks as shown by T1 validated on that S with their arrival notices prepared and signed by Intertrade storekeeper. On 04th January, 2022 we have conducted a physical count (stock taking) of SOMDIAM Ltd represented by Vicky PABARI. This stock taking was done in Intertrade warehouse and we have found 125 bags of sugar of 50kg. This stock until now is available in Intertrade warehouse but the warehouse operators have not accepted to give it to the SOMDIAM Ltd.

Page 10

[33] Muri iyo nyandiko-mvugo habajijwe ikibazo cyo kumenya niba mu gihe hatakozwe IM 7 hari ibicuruzwa bisa bishoboka ko bakomeza gusohora, hanyuma umukozi wa RRA asubiza muri aya magambo : “déclarant yashaka gusohora 400 sacs ariko akerekana S bivaho. Ibintu byasohoka mu kavuyo ariko tracabilité ikerekana uwabisohoye, déclaration ikubaza

werehouse wabitsemo kuko kuri yose iba ifite cote kugira ngo na garantie yafatiriwe isubizwe nyirayo”. Ku rupapru rwa 22 yanasubije ko bishoboka ko wasohora ibicuruzwa byinshi uko ubishaka ariko ko sisitemu (system) yo ireba ko total zigenda zishira, ko iyo ibicuruzwa bibuze physiquement niho haza system ya traçabilité. Inagaragaza na none ko inteko yasabye y’Urukiko yasoje isaba abakozi ba RRA kuzakora raporo igaragaza traçabilité kuva konteneri 10 zinjiye ku cyambu kugera zisohotse muri Warehouse. [34] Urukiko rurasanga, nk’uko byagaragajwe haruguru, sisitemu ikoreshwa na RRA niyo igaragaza uburyo kontineri icumi z’isukari za SOMDIAM Ltd zavuye Dar-es- Salaam zijya mu bubiko bwa Kivu bugenzurwa na Gasutamo, ikanagaragaza ko konteneri eshatu (3) muri izo ari zo zoherejwe muri Intertrade Warehouse Ltd aho kuba eshanu (5). Inagaragaza ko izo konteneri zose uko ari icumi (10) zasohotse mu Rwanda zijya muri Repubulika iharanira Demokarasi ya Congo, ko muri kivu warehouse hasohotsemo konteneri zirindwi (7), izindi eshatu (3) zisohoka muri Intertrade Warehouse Ltd. Urukiko rurasanga iyi raporo ari yo igaragaza ukuri k’uko ibintu byagenze, bikaba rero byumvikana ko ari ikimenyetso gikwiye guhabwa isumbwe mu bimenyetso bitandukanye byatanzwe n’ababuranyi, cyane ko iyo raporo yasabwe n’Urukiko Rukuru rw’Ubucuruzi mu gihe rwari mu iperereza, bivuze ko nubwo rwikoreye iperereza ariko ibisubizo rwahawe bitari bihagije kugaragaza niba muri Intertrade Warehouse Ltd kuri S 5459 harinjiye konteneri eshatu cyangwa eshanu. [35] Urukiko rurasanga raporo yakozwe na RRA yashyizweho umukono na Komiseri wa za Gasutamo ku wa 30/05/2024, igaragaza ko bagendeye kubigaragara muri sisitemu ya Gasutamo, uhagarariye umucuruzi ari we New Brite Clearing Agency yohereje konteneri eshatu (3) zigizwe n’imifuka 1,620 mu bubiko bwa Intertrade Warehouse Ltd aho koherezayo kontineri eshanu (5) nk’uko yari yabisabye, bikaba bigaragara kuri S23/41KV/2021, bivuze ko konteneri ebyeri zasigaye mu bubiko bwa KIVU Warehouse nk’uko sisitemu ibigaragaza. Rurasanga rero ibyagaragajwe na sisitemu ya RRA ari byo byafatwa nk’ukuri, cyane ko binashimangirwa no kuba muri Kivu Warehouse harasohotsemo konteneri zirindwi

- (7) zisohokeye ku imenyekanishamusoro S 5459/TZDL/2021, bikaba rero bitumvikana ukuntu SOMDIAM Ltd yari kuba izi ko muri Kivu Warehouse yabikijemo konteneri eshanu (5) kuri S 5459/TZDL/2021 hanyuma ikajya gusohoramo konteneri zirindwi (7). Ibi byanagarutsweho n’umukozi wa RRA mu nyandiko-mvugo y’iperereza ryakozwe n’Urukiko aho yasobanuye ko urujijo ruza na none mu gupakira aho utabitse. [36] Ikindi RRA niyo igenzura ububiko bw’ibicuruzwa biva ku cyambu bije mu Rwanda cyangwa se ibicuruzwa bigomba kunyura mu Rwanda bijyanwa ahandi, bivuze ko ari yo imenya ibicuruzwa byinjiye mu bubiko n’ibyasohotse. Ibi bikaba byumvikanisha ko sisitemu ya RRA igaragaza uburyo ibicuruzwa biva ku cyambu bikinjira mu bubiko bwo mu Rwanda ndetse n’uburyo bisohoka, ari yo itanga amakuru yizewe ku micungire ya Gasutamo. Bityo, kuba raporo yatanzwe na RRA ku wa 30/05/2024, igaragaza ko mu bubiko bwa Intertrade Warehouse Ltd habikijwemo kontineri eshatu zifite S 5459/TZDL/2021, birumvikana ko ibyo RRA yemeje ari byo bigomba kwemerwa n’Urukiko. Byongeye kandi, wakwibaza inyungu RRA yaba ifite yo kwemeza ko muri Intertrade Warehouse Ltd habikijwe konteneri eshatu zifite S 5459/TZDL/2021, aho kuba eshanu zivugwa na SOMDIAM Ltd. [37] Urukiko rurasanga ikindi kimenyetso

SOMDIAM Ltd ishingiraho mu bujuri bwayo ni raporo y'umukozi wa RRA wari i Rusizi yo ku wa 29/03/2022. Nk'uko byasobanuwe n'Urukiko Rukuru rw'Ubucuruzi, uru Rukiko rukaba rwemeranya narwo, iyo raporo yo ku wa 29/03/2022, ntabwo igaragaza ko Intertrade Warehouse Ltd yakiriye konteneri ebyiri zivugwa na SOMDIAM Ltd, cyane ko igaragaza ko Umuyobozi wayo yabihakanye, ndetse inagaragaza ko Intertrade Warehouse Ltd yasubije SOMDIAM Ltd ko isukari yose yayibikije yayisubijwe. Rusanga kandi kuba muri iyo raporo havugwamo ko basanze mu bubiko bwa Intertrade Warehouse Ltd imifuka 125 ya 50 kgs, iyi ikanga kuyiha SOMDIAM Ltd nabyo

Page 11

atari ikimenyetso kigaragaza ko hejuru ya konteneri eshatu, Intertrade Warehouse Ltd yakiriye zigaragazwa na sisitemu ya Gasutamo hari izindi ebyeri yakiriye zikomoka kuri kontineri icumi zifite S 5459/TZDL/2021, kuko nk'uko byasobanuwe n'Urukiko Rukuru rw'Ubucuruzi kandi uru Rukiko rukaba rwemeranya narwo, ntabwo iyo raporo igaragaza ikimenyetso cyerekana ko iyo mifuka 125 ya 50 kgs yari iya SOMDIAM Ltd, ku buryo byafatwa ko ari iyasagutse kuri konteneri ebyiri SOMDIAM Ltd ivuga ko zabitswe na Intertrade Warehouse Ltd. [38] Urukiko rurasanga avis d'arrivées SOMDIAM Ltd ishingiraho ivuga ko zigaragaza ko Intertrade Warehouse Ltd yabikijwe konteneri eshanu zifite S 5459/TZDL/2021 atari ikimenyetso kidashidikanywaho gihamya nta shiti ko Intertrade Warehouse Ltd yabikijwe konteneri eshanu, aho kuba eshatu, kuko izo avis d'arrivées zidahura n'ibigaragazwa na sisitemu ya Gasutamo nk'uko byasobanuwe na RRA muri raporo yakozwe ku wa 30/05/2024, kuko yo igaragaza ko Intertrade Warehouse Ltd yabikijwe konteneri eshatu, kandi na raporo yakozwe n'umukozi wa RRA ku wa 29/03/2022, igaragaza ko sisitemu ya Gasutamo igaragaza ko konteneri Intertrade Warehouse Ltd yabikijwe ari eshatu zirimo imifuka 1,620. Ikindi gishimangira ko izo avis d'arrivées atari ikimenyetso kidashidikanywaho ni uko muri Kivu Warehouse hasohotsemo konteneri zirindwi zifite S 5459/TZDL/2021 waziteranyaho eshatu zabikijwe muri Intertrade Warehouse Ltd zikaba icumi zavuye Dar-es-salaam zikoherezwa muri Congo. Ikindi nk'uko byanasobanuwe n'Urukiko Rukuru rw'Ubucuruzi avis d'arrivées zikorera inyuma ya sisitemu, bivuze ko umukozi wa Intertrade Warehouse Ltd wazisinye yibeshye cyangwa yakoze uburiganya. [39] Ku byo abahagarariye SOMDIAM Ltd bavuga ko ikindi kigaragaza ko muri Intertrade Warehouse Ltd habikijwe kontineri eshanu zifite S 5459/TZDL/2021 ari uko yishyuje konteneri eshanu, Urukiko rurasanga, nk'uko byasobanuwe n'Urukiko Rukuru rw'Ubucuruzi kandi uru Rukiko rukaba rwemeranya narwo, ni uko kwishyura bishingira kuri avis d'arrivées, bivuga ko mu gihe umukozi wa Intertrade Warehouse Ltd yujuje avis d'arrivées zirenze konteneri zakiriwe, n'uwishyura azakora fagitire ishingiyeye kuri izo avis d'arrivées zakozwe. Bikaba rero byumvikana ko icyo atari ikimenyetso gihamya nta shiti ko mu SOMDIAM Ltd yabikije Intertrade Warehouse Ltd konteneri eshanu zifite S 5459/TZDL/2021, aho kuba eshatu zigaragazwa na Sisitemu ya RRA. [40] Hashingiwe ku ngingo ya 12 y'Itegeko No 22/2018 yibukijwe haruguru no bisobanuro bimaze gutangwa, Urukiko rurasanga ibimenyetso SOMDIAM Ltd ishingiraho ubujuri bwayo bidahamya nta shiti ko Intertrade Warehouse Ltd yabikijwe kontineri eshanu nk'uko ibivuga, bikaba rero byumvikana ko nta kosa Urukiko Rukuru rw'Ubucuruzi rwakoze mu rubanza

rujuririrwa RCOMA00123/2023/HCC. Bityo indishyi mbonezamusaruro SOMDIAM Ltd isaba ntazo ikwiye guhabwa kuko ntaho zishingiye. 2.Kumenya niba indishyi zo gushorwa mu manza, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka bisabwa muri uru rubanza bifite ishingiyo [41] Abahagarariye SOMDIAM Ltd bashingiye ku ngingo ya 111 No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ivuga ku mafaranga y'ibyagiye ku rubanza, basaba Urukiko rw'Ubujurire gutegeka Intertrade Warehouse Ltd kwishyura SOMDIAM Ltd indishyi zingana na miliyoni zirindwi n'ibihumbi magana atanu (7.500.000 Frw), zikubiyemo indishyi zo gushorwa mu manza ku maherere n'amafaranga y'igihembo cya Avoka. Bavuga kandi ko indishyi zisabwa Intertrade Warehouse Ltd nta shingiro zifite, ngo kuko ari yo yabaye nyirabayazana w'uru rubanza. [42] Abahagarariye Intertrade Warehouse Ltd biregura ku ndishyi SOMDIAM Ltd isaba bavuga ko ntazo yahabwa, ngo kuko ari yo yateje ibibazo. Bavuga kandi ko SOMDIAM Ltd ari yo ikwiye gutegekwa guha Intertrade Warehouse Ltd amafaranga miliyoni imwe (1.000.000Frw) y'igihembo cya Avoka n'amafaranga ibihumbi magana atatu (300.000Frw) y'ikurikiranarubanza.

Page 12

UKO URUKIKO RUBIBONA [43] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibi bikurikira: "Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'yo ikirego cy'iremezo cyaba kitakiriwe". [44] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Intertrade Warehouse Ltd isaba afite ishingiyo kuko ubujurire bwa SOMDIAM Ltd bwatumye yiyambaza Avoka wo kuyiburanira no gukurikirana urubanza. Kuba rero bigaragaye ko ubujurire bwa SOMDIAM Ltd nta shingiro bufite, Urukiko mu bushishozi bwarwo, rugeneye Intertrade Warehouse Ltd amafaranga ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000Frw) y'ikurikiranarubanza, kuko ayo isaba ari menshi harebwe ibyakozwe ku rubanza. Aya mafaranga agenwe kuri uru rwego, agomba kwiyongera ku yo Intertrade Warehouse Ltd yagenewe mu rubanza rujuzirirwa ahwanye n'ibihumbi magana atanu (500,000Frw) y'igihembo cya Avoka, ibihumbi ijana (100,000Frw) y'ikurikiranarubanza n'ibihumbi mirongo ine y'amagarama (40,000Frw); yose hamwe akaba miliyoni imwe n'ibihumbi magana atatu mirongo ine (1,340,000Frw) agomba gutangwa na SOMDIAM Ltd. [45] Urukiko rurasanga indishyi zo gushorwa mu manza hamwe n'amafaranga y'ibyagiye ku rubanza SOMDIAM Ltd isaba, ntazo igomba guhabwa kuko ntaho zishingiye kubera ko ubujurire bwayo nta shingiro bufite. III. ICYEMEZO CY'URUKIKO [46] Rwemeje ko ubujurire bwatanzwe na SOMDIAM Ltd nta shingiro bufite. [47] Rwemeje ko ubujurire bwuririye ku bundi bwatanzwe na Intertrade Warehouse Ltd bufite ishingiyo. [48] Rwemeje ko nta gihindutse ku mikirize y'urubanza RCOMA00123/2023/HCC rwaciye n'Urukiko Rukuru rw'Ubucuruzi ku wa 26/06/2024. [49] Rutegetse SOMDIAM Ltd kwishyura Intertrade Warehouse Ltd amafaranga ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka n'amafaranga ibihumbi magana abiri (200.000Frw) y'ikurikiranarubanza,

kuri uru rwego, yiyongera ku yo yagenewe mu rubanza rujuririrwa ahwanye n'ibihumbi magana atandatu mirongo ine (640,000Frw), yose hamwe akaba miliyoni imwe n'ibihumbi magana atatu mirongo ine (1,340,000Frw) agomba gutangwa na SOMDIAM Ltd. [50] Ruvuze ko ingwate y'amagarama yatanzwe ihwanye n'ibyakoze mu rubanza.

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Prepared on 10 October 2026 · Esheria