THE REPUBLIC OF UGANDA

IN THE TAX APPEALS TRIBUNAL AT KAMPALA

APPLICATION NO 25 OF 2022

ECOLAB EASTAFRICA UGANDA LIMITED.....APPLICANT

VERSUS

UGANDA REVENUE AUTHORITY.....RESPONDENT

RULING

BEFORE: MS. KABAJWARA CRYSTAL, MRS. KATWE CHRISTINE, MS. KABAKUMBA MASIKO

This ruling is in respect of an application challenging an assessment of Shs. 1,174,323,269 arising from the Respondent's disqualification of certain goods imported by the Applicant from the East African Community preferential tariff treatment.

1. Background Facts

The Applicant is part of the Ecolab group of companies whose ultimate parent company is Ecolab Inc. which is incorporated in the USA. The principal activity of the company is the buying and selling of cleaning products.

In 2020, the Respondent conducted a post-clearance audit on the Applicant for the period from January 2015 to December 2019 and established that the Applicant had under declared customs duties for that period on account of preferential treatment granted to goods imported from Ecolab Kenya and Orbit Chemicals Limited. The Respondent based their assessment on the grounds that the goods did not qualify for preferential treatment as they were not appropriately labelled as originating from within the East African Community (EAC).

Consequently, the Respondent computed tax of Shs. 1,070,689,422 and Shs.103,633,8471 on goods classified under headings 3401 and 3402 and supplied by Orbit Chemicals Limited and Ecolab East Africa Kenya Limited respectively.

The Applicant objected to the Respondent's assessment on grounds that the imported goods from Ecolab Kenya and Orbit Chemicals had undergone sufficient working or processing in Kenya to convert the raw materials into final products that are classifiable under the relevant headings, and that these goods were appropriately labelled to qualify for preferential treatment.

The Respondent disallowed the Applicant's objection on grounds that the products in question did not comply with the EAC rules of origin hence this application.

2. Issues for determination

The issues for determination before the tribunal are:

(i) Whether the Applicant is liable to pay the taxes assessed?
(ii) What remedies are available to the parties?

3. Representation

The Applicant was represented by. Mr. Bruce Musinguzi while the Respondent was represented by Mr. George Ssenyomo.

The Applicant's first witness was its Regulatory Affairs manager, Mr. Manana Pride Sylvester who testified that for the period under review, the products imported from Ecolab East Africa Kenya Limited were manufactured in Kenya by Orbit Chemicals under a toll contract manufacturing arrangement. These products were purchased from Orbit Chemicals by Ecolab Kenya to be sold to Ecolab Uganda. He further testified that Orbit Chemicals only imports raw materials classifiable under the tariff headings 28.06 and 28.08 and that the goods in question were manufactured under license and labelled as 'manufactured in Kenya'.

The Applicant's second witness Ms. Wilfridah Boho, the Applicant's Finance and Administration Manager testified that Ecolab Kenya purchases products from Orbit Chemicals. It also imports both raw materials and finished products from other Ecolab entities and where the goods purchased from Orbit Chemicals are to be sold to

Uganda, Ecolab Uganda obtains and attaches certificates of origin to the goods, which are endorsed by the Kenya Revenue Authority.

The Respondent's witness Ms. Hilda Kobusinge, a Tax Officer in the customs audit section testified that the Applicant acknowledged that the products did not contain a label indicating Kenya as the country of manufacture. Additionally, the Applicant failed to provide a board resolution to support their assertion that they took an internal decision to exclude the "Made in Kenya" label by Orbit Chemicals.

The Respondent's second witness, Ms. Dorah Ainembabazi, an Officer in the customs audit department, testified that they carried out an inspection of the Applicant's premises and established that some of the products were marked "Made in Kenya by Orbit Chemicals for Ecolab East Africa". Ms. Dorah Ainembabazi testified that the products in contention did not indicate the manufacturer or place of manufacture and that for goods under license to be granted East African Community tariff treatment, they must ensure that the names and addresses of the company producing the goods in the partner state are indicated on the goods. Additionally, the labelling requirements for the goods in contention were not met by the Applicant.

4. Submissions of the Applicant

The Applicant submitted that the goods listed under Schedule 3 of the Respondent's management letter met the criteria outlined in Rules 4 and 6 of the East African Community Customs (Rules of Origin), 2015 ("Rules of Origin"). The Applicant asserted that the goods imported from 2015 to 2019 from Orbit Chemicals Ltd were not strictly required to qualify for preferential treatment.

The Applicant referred to Guideline 4 of the Manual on Application of EAC Rules of Origin ("Rules of Origin Manual"), which states that goods shall be considered as originating in a partner state if they are wholly produced in that partner state, as provided for in Rule 5, or if they are produced in the partner state incorporating materials that have not been wholly obtained there, provided such materials have undergone sufficient working or processing within the partner state, as defined in Rule 6.

The Applicant also referenced Guideline 2.2 of the Rules of Origin Manual, which outlines the process for determining the origin of goods. According to Paragraph 3 of Guideline 2.2:

"Goods shall be accepted as originating from a partner state if they are obtained from the partner state and incorporate materials that were not wholly obtained there, provided that such materials underwent sufficient working or processing within the partner state, as outlined in Rule 6."

The Applicant outlined the four criteria for determining whether goods have undergone sufficient working under Guideline 2.5.

Additionally, the Applicant explained the basis for granting a Certificate of Origin (COO) for goods imported into a partner state and submitted that, for a COO to be granted by a Competent Authority, the specific processes outlined in the guidelines must be complied with. The competent authorities in this case, the Kenya Revenue Authority, which issued the certificate should have ensured that the goods were indeed manufactured in Kenya. Having done so, the goods automatically became entitled to preferential treatment upon importation. Therefore, the goods imported from Orbit Chemicals Ltd. presumably complied with the guidelines, as they were issued Certificates of Origin. The Applicant submitted that they did not pay taxes on the goods imported from Kenya, claiming that they were entitled to preferential treatment because the goods were manufactured in Kenya.

Furthermore, the Applicant argued that the assessment was raised on the basis that the imported goods failed to meet labelling requirements. However, labelling is not a requirement for determining origin. Further, labelling is generally considered a process that does not support a claim that goods originate from a partner state. The Applicant cited Guideline 2.19 which the Respondent relied on that it only requires that the manufacturing company ensure the name and address of the company are indicated on the product. It does not state that labelling requirements must be met for goods to qualify for preferential treatment.

The Applicant pointed out that the samples marked AEX5 clearly indicate at the bottom that the products were made in Kenya by Orbit Chemicals for Ecolab East Africa. By failing to provide sample evidence, the Respondent has not justified its assessment or objection that the goods exported by Orbit Chemicals from Kenya failed to meet the labelling requirements. The Applicant prays that it be found that the imported goods qualified for preferential treatment under the EAC Customs Union Rules of Origin 2015 and that the assessment be vacated.

5. Submissions of the Respondent

The Respondent maintained that the Applicant is liable for the taxes because they acknowledged that the products did not contain a label indicating that they were made in Kenya and there is no evidence that the products indicated the manufacturer or place of manufacture as required by the Rules of Origin Manual. The Respondent submitted that the Applicant also failed to provide documentation relating to imports and exports, particularly concerning the labelling of their products.

The Respondent submitted that companies manufacturing goods under the license of international firms should ensure that the name and address of the company producing the products in the partner state are indicated on the product so that the goods are considered of EAC origin.

The Respondent referred to Rule 2.19, which makes it a requirement for goods to be considered of EAC origin that the name and address of the company producing the products in the partner state under license be indicated on the product. Respondent further submitted that the Applicant acknowledged that the products did not contain a label indicating they were made in Kenya and that the omissions mentioned in the Respondent's audit findings were corrected to ensure compliance. The Respondent prayed that a judgment on admission be entered and referred to the case of **John *W. Katende & Another v. Uganda Communications Commission, MA No. 99 of*** *2022.*

The Respondent submitted that during the inspection of the Applicant's warehouse, some products were found to have labels indicating they were made in Kenya by Orbit Chemicals for Ecolab East Africa. However, these products did not display the manufacturer or place of manufacture, thus failing to meet the labelling requirements

as per the provisions. Ecolab Kenya rolled out a new toll manufacturer, Protea Chemicals Limited (Protea), to manufacture some of the products and stopped labeling the goods as they were now using more than one toll manufacturer. Subsequently, Ecolab contracted another manufacturer, Ken Ron Chemicals, and Ecolab made an internal decision to exclude "Made in Kenya" from the labels, as they were now working with multiple toll manufacturers.

The Respondent's rebuttal submissions rely on Rules 4 and 6 and submit that the goods in this dispute are different from goods simply produced in the partner state. In addition to the other requirements outlined by the Applicant, the manufacturer needs to label the products by indicating the name and address. The rationale for this is to encourage manufacturing in East Africa and prevent entities from importing products from all over the world and selling them in East Africa without paying taxes.

Furthermore, the Respondent submitted that granting preferential treatment based on the certificates was an error, considering that the certificates were not properly filled out and also emphasized that labelling is a requirement for goods manufactured under license and it is the only way to confirm that the goods indeed originate from a partner state and have not been imported from all over the world. Without labelling, products could be imported from everywhere without paying taxes. The company has the onus and obligation to provide such evidence to support its case.

The Respondent submitted that the Applicant failed to provide the evidence requested for and had no other option but to rely on the available information and raised a tax liability against the Applicant.

The Respondent prayed that the Tribunal finds no merit in the arguments raised by the Applicant and dismisses this application, with costs awarded to the Respondent.

6. The Applicant's Submissions in Rejoinder

The Applicant, in rejoinder, acknowledged that whilst some products did not contain a label indicating they were made in Kenya, this should not disqualify the goods from preferential treatment under the EAC Rules of Origin.

The Applicant submitted that the Respondent's reliance on Rule 2.19 of the Rules of Origin Manual was misplaced, as labelling requirements are not a determinant of origin under the EAC Rules of Origin. The Applicant pointed out that the rule simply requires that the name and address of the company producing the products under license be indicated on the product, which is a guideline rather than a mandatory requirement for determining the origin of goods.

Furthermore, the Applicant clarified that the products imported from 2015 to 2019 from Orbit Chemicals Ltd. were manufactured under license in Kenya and underwent sufficient working or processing within the partner state, as required by Rules 4 and 6. The Applicant referenced the guidelines and the Certificate of Origin issued by the Kenya Revenue Authority to support their claim that the goods complied with the origin requirements and were entitled to preferential treatment.

The Applicant also refuted the Respondent's claims regarding the documentation for imports and exports. The Applicant stated that they had provided the necessary documentation and that any omissions in labelling were addressed and corrected to ensure compliance. The Applicant emphasized that labelling is generally a process that does not affect the determination of origin and that the failure to include "Made in Kenya" on some products should not negate the preferential treatment granted based on the Certificates of Origin.

The Applicant concluded that the Respondent's assessment was erroneous and that the goods imported from Orbit Chemicals Ltd qualified for preferential treatment under the Rules of Origin. The Applicant prayed that the Tribunal finds merit in their submissions and vacates the assessment.

7. The determination by the Tribunal

Having listened to the evidence of both parties and read the submissions, this is the decision of the Tribunal.

The dispute in question revolves around preferential treatment accorded to certain goods and whether the failure to comply with labelling requirements invalidates the origin of the goods for purposes of granting preferential treatment.

The Applicant imported goods which it declared as originating from Kenya. The Respondent conducted a customs post clearance audit on the Applicant where it purportedly found that most of the cleaning chemicals and detergents imported by the Applicant were not appropriately labelled as having been manufactured in Kenya.

The Respondent contends that the goods did not meet the labelling requirements as provided for in paragraph 2.19 of the Rules of Origin Manual. Thereafter the Respondent assessed tax assessed on the products from Orbit Chemicals of Shs. 1,172,557,609 and from Ecolab Kenya of Shs. 103,663,847.

Historical context and legal framework concerning preferential tariff treatment of goods originating within the EAC.

In 1999, Uganda, Kenya and Tanzania, who were the founding members of the East African Community ("EAC"), signed the ***Treaty Establishing the East African Community ("the Treaty").***

According to Article 2 of the EAC Treaty, the three countries agreed to establish an East African Customs Union and a Common Market as transitional stages to and integral parts of the Community. For purposes of the Customs Union, Article 2 of the Treaty should be read together with ***Article 75*** which establishes the ***Customs Union*** and provides:

"For purposes of this Chapter, the Partner States agree to establish a Customs Union details of which shall be contained in a Protocol which shall, inter alia, include the following:

(a) The application of the principle of asymmetry;

(b) The elimination of internal tariffs and other charges of equivalent effect;

(c) The elimination of non-tariff barriers;

(d) Establishment of a common external tariff;

(e) ***Rules of origin****;*

(f) Dumping;

(g) Subsidies and countervailing duties;

(h) Security and other restrictions to trade;

(i) Competition;

(j) Duty drawback, refund and remission of duties and taxes;

(k) ***Customs co-operation****;*

(l) Re-exportation of goods; and

(m) Simplification and harmonisation of trade documentation and procedures."

In 2005, to operationalise the Customs Union, the EAC Partner States signed the Protocol for the Establishment of the East African Community Customs Union ("Customs Union Protocol"). The Customs Union is the first EAC integration milestone and is a critical foundation of the EAC. The EAC Customs Union is a free trade area, where goods and services move freely within the Partner States and are subjected to zero duty.

Goods moving freely within the EAC must comply with the ***EAC Rules of Origin*** and with certain provisions of the Customs Union Protocol.

Partner States also agreed to eliminate internal tariffs and establish a common external tariff (CET) for imports from outside the EAC.

Article 14 of the ***Customs Union Protocol*** provides:

"1. For purposes of this Protocol, goods shall be accepted as eligible for Community tariff treatment if they originate in the Partner States.

2. Goods shall be considered to originate in the Partner States if they meet the criteria set out in the Rules of Origin adopted under this Article.

3.The Partner States hereby adopt the East African Community Rules of Origin specified in Annex III to this Protocol."

What can one surmise from the above?

(a) The Customs Union, which allows for the duty-free movement of goods and services with the EAC is integral to the continuity and sustainability of the EAC.
(b) For goods to move freely, they must originate in the Partner States
(c) Origin is determined by the Rules of Origin which form part of the Customs Union Protocol.

The East Africa Customs Management Act

In 2005, the East Africa Community Customs Management Act was enacted for purposes of the management and administration of customs and related matters within the EAC.

Section 111 of the EACCMA bestows community tariff treatment on goods originating from the partner states. It provides:

"1. Goods originating from the Partner States shall be accorded Community tariff treatment in accordance with the Rules of Origin provided for under the Protocol.

2.Customs shall require production of Certificates of Origin and other documents as proof of origin of goods referred to in subsection (1) above."

In ***British American Tobacco v Uganda Revenue Authority Application No. 62 Of 2019,*** the Tribunal noted that for one to be accorded preferential treatment under the EACCMA, goods must originate from partner states and treatment shall be in accordance with the rules of origin provided for under the protocol. The Tribunal went on to state that there is need to provide a certificate of origin to prove the origin of the goods.

How are Certificates of Origin obtained?

According to Rule 17 of the Rules of Origin, exporters are required to apply to a Competent Authority for a Certificate of Origin. The Application must contain the following:

a) direct evidence of the processes carried out by the exporter to obtain the goods concerned, contained in accounts or internal bookkeeping of the exporter;
b) documents proving the originating status of materials used, issued by a Partner State where these documents are used, in accordance with the national laws of the Partner State;
c) documents proving the working or processing of materials in the Partner State where these documents are used in accordance with the national laws of the Partner State;
d) a Certificate of Origin proving the originating status of materials used, issued by a Partner State in accordance with these rules; and
e) any other document as may be required by the Competent Authority.

According to Rule 17 (5) and (6), upon receipt of an application, a Competent Authority of a Partner State shall verify the application and the originating status of the product, and shall have the right to call for any other evidence of originating status and to carry out any inspection of the accounts of the exporter or any other check considered

appropriate. Once the Competent Authority is satisfied with the application, they proceed to issue a Certificate of Origin to the exporter before actual exportation is effected.

Why is this context important? It is important because it demonstrates policy considerations behind the preferential / community tariff treatment and the elaborate and statutory process that exporters follow to prove the origin of the goods they intend to export to another Partner State. This process involves the verification exercise by a Competent Authority in the originating Partner State.

The Rules of Origin define the Competent Authority to mean:

"*body or organization designated by a Partner State to issue a Certificate of Origin.*"

In practice, the Competent Authority is the Revenue Authority in the relevant Partner State. In this particular case, since the goods in question were exported from Kenya, the Competent Authority is the Kenya Revenue Authority.

What criteria does a Competent Authority follow to determine origin?

Rules of origin are the rules that determine where goods have been obtained or manufactured. They set the conditions under which a good may be considered as having originated in a certain country.

Paragraph 1(e) of the World Customs Organisation Guidelines define "**origin criteria**" to mean conditions regarding the production of goods which must be fulfilled for the goods to be considered as originating under the applicable rules of origin.

The origin criteria for the Customs Union are provided for in the Rules of Origin. Specifically, Rule 4 provides:

"1. Goods shall be accepted as originating in a Partner State where the goods are-

(a) wholly produced in the Partner State as provided for in Rule 5; or

(b) produced in the Partner State incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Partner State as provided for in Rule 6.

2. For the purposes of implementing these Rules, the Partner States shall be considered as one territory."

Manual on the Application of the EAC Rules of Origin ("the Rules of Origin Manual")

Rule 27 of the Rules of Origin grants the EAC Secretariat delegated authority to develop and review manuals in respect of the Rules of Origin. It provides as follows:

"The Secretariat shall develop and review manuals in respect of these Rules."

Therefore, in September 2015, the Directorate of Customs at the EAC Secretariat issued the above manual. The manual states as follows in its first introductory paragraph:

"The Manual on the Application of EAC Rules of Origin is an EAC publication which sets out guidelines on the operationalization of the EAC Rules of Origin in order to accord community tariff preferences to goods that meet the origin rules and are traded between the Partner States."

The manual therefore provides guidance to competent authorities on the application and implementation of rules of origin.

At this stage, it is important to point out that when looked at in its entirety, the legal framework that governs the preferential tariff treatment of goods originating or traded within the EAC comprises of:

(i) The EAC Treaty;
(ii) The Customs Union Protocol;
(iii) The Rules of Origin as annexed to the Protocol;
(iv) The East African Customs Management Act; and
(v) Subsidiary guidelines contained in the Rules of Origin Manual made under the Rules of Origin.

It should be noted that whilst items (i) to (iv) are binding on the Partner States, guidelines on the other hand are not binding. They are supplemental materials that help clarify existing rules and regulations, but they are not legally binding. Guidelines can be departmental documents that are used to interpret legislation and regulations. In the present case, the manual contains guidance issued by the Directorate of Customs at the EAC Secretariat.

Application to the facts of the dispute

Having set out the historical, legal and policy considerations regarding the intra- EAC trade, we now turn to the specific facts and circumstances of the dispute at hand.

The Respondent's revoked the preferential treatment accorded to the Applicant's good on the grounds that:

a) Goods produced under licence must be labelled with the manufacturer's label as proof of origin. The Respondent has relied on Guideline 2.19 of the Rules of Origin Manual.
b) The Certificates of Origin were not correctly filled and as such, they could not be relied to grant preferential treatment.

We address each of the above points below.

a) Whether absence of labels is a valid ground for disqualifying origin and revoking preferential treatment

Guideline 2.19 of the ***Rules of Origin Manual*** states as follows:

"Goods produced under a license shall be granted Community Tariff treatment if they meet the criteria outlined in the EAC Rules of Origin. Companies manufacturing goods under the license of international firms must ensure that the name and address of the company producing the products in the Partner State are indicated on the product. This allows the goods to be considered as originating from the EAC."

The Respondent contends that as the Applicant's goods were produced under license, they ought to have borne the name and address of the company producing the products. Since the goods did not bear the name and address, they didn't qualify for preferential treatment.

On the other hand, ***Rule 7 of the Rules of Origin*** categorically states that labelling does not confer origin. It provides as follows:

"...the following operations and processes shall not support a claim that goods originate from a Partner State...

(f) marking, labelling or affixing distinguishing sign on products or their packages..."

Presently, we have a situation where there is a specific rule in the Rules of Origin that unequivocally provides that with labelling does not confer origin. At the same time, we have a provision in the Rules of Origin Manual, which the Respondent has relied on to revoke the preferential treatment of the Applicant's goods on the ground that the Applicant had not proved origin due to a lack of appropriate labelling on the goods.

It should be noted that no where in the Rules of Origin or under the EACCMA is labelling a mandatory requirement for proof or origin. However, the Respondent seeks to rely in a labelling guideline in the Rule of Origin Manual, which is subsidiary to the Customs Union Protocol to revoke the preferential treatment of the Applicant's goods.

Clearly, there is a conflict between the EAC Rules of Origin and Rules of Origin Manual What takes precedence over the other?

The question of the standing of subsidiary or delegated legislation vis-a-vis principal legislation has extensively been dealt with by the courts.

In ***Uganda Clearing Industry & Forwarding Association v KCCCA & AG Misc. Cause No. 439 of 2017,*** it was held that delegated legislation can be questioned on ground that it is inconsistent with provisions of the parent Act.

Further, in ***Uganda Law Society vs KCCA & AG Misc. Cause No.243 of 2017,*** Hon. Justice Musa Ssekaana ruled:

"The conferment of rule-making power by an Act does not enable the rule making authority to make a rule that travels beyond the scope of the enabling Act or which is inconsistent therewith or repugnant thereto or affects other existing legislations."

Therefore, whilst the Customs Union Protocol and Rules of Origin made thereunder confer powers on the EAC Secretariat to develop manuals for the operationalisation of the Rules of Origin, the manual ought not and should not be used to exceed the scope of the Rules of Origin. Since the Rules of Origin provide that labelling does not confer origin, the Respondent cannot use or rely on a labelling guideline in the manual to challenge the origin of the Applicant's goods.

Several arguments have been raised regarding the labels on the goods. For example, the Applicant argues that the Respondent did not provide samples of the goods in question that were labelled. The Respondent also alludes to the Applicant's failure to provide evidence showing the discontinued use of labels after 2019.

In our view, it is not necessary to get into the merits or demerits of labelling as we have determine that the Rules of Origin are clear that labelling does not confer origin and that the guidelines in the Manual go beyond the scope of the Rules of Origin. Therefore, while labelling is desirable, it is not mandatory for purposes of determining origin, be it for a licensed manufacturer or otherwise.

b) Whether the respondent was correct in revoking preferential treatment on the ground of incorrectly filled Certificates of Origin

The Respondent submitted that the Applicant's Certificates of Origin contained errors and for this reason, it was improper to grant preferential treatment based on certificates that contained errors.

As we have noted, Certificates of Origin are issued by a Competent Authority in a Partner State to an exporter. This is in accordance with Rule 17 of the Rules of Origin. The exporter does not originate or create their own certificates.

Where a Competent Authority doubts the origin of the goods or questions the validity of a Certificate of Origin, the Competent Authority is free to verify the certificate presented and require additional information. Specifically, Rule 24 lays down the procedures for verification of proof of origin. It provides:

"1. A Competent Authority may, in exceptional circumstances and notwithstanding the presentation of a Certificate of Origin issued, or origin declaration made in accordance with these Rules, require, further verification of the information contained in that Certificate of Origin or origin declaration.

2. Where a request for further verification is made by a Competent Authority under this rule, the verification shall be made within three months of the request, using the form prescribed in the Fifth Schedule.

3. An importing Partner State shall not prevent an importer from taking delivery of goods solely on the grounds that it requires further evidence, but may require security for any duty or other charge which may be payable."

In the present case, the Applicant presented certificates of origin showing that the goods originated from Kenya. Since the certificates were not correctly filled and the Respondent doubted their veracity, the Respondent ought to have verified the same with the issuing Competent Authority, being the Kenya Revenue Authority.

In the case of ***Regal Paints Limited v Uganda Revenue Authority, TAT Application No. 10 / 2021***, the Tribunal found that the Respondent was wrong not to consider certificates of origin as declared at import where the Applicant had certificates of origin showing that the goods had originated from within the EAC and the Respondent did not seek verification from a competent authority.

The free movement of goods within the EAC is a fundamental tenet of the EAC Customs Union. Efforts should be expended towards ensuring that the natural flow of goods within the EAC is not disrupted. Certificates of Origin are the passports that allow the goods to move freely within the Community. Therefore, Competent Authorities should as far as possible uphold certificates of origin issued by other competent authorities. When in doubt about the origin of a good, the competent authority of the importing country should seek verification from the corresponding competent authority.

Therefore, the Tribunal finds that the Respondent was not justified in revoking the preferential treatment of the Applicant's goods and discounting the certificates of origin without verifying the same with the competent authority of the exporting country.

In the circumstances, the Tribunal makes the following orders:

(i) The assessment of Shs. 1,070,689,422 for imports from Orbit Chemicals Limited be set aside.
(ii) The assessment of Shs. 103,633,847 for imports from Ecolab Kenya be set aside.
(iii) The Applicant is hereby awarded costs of this application
(iv) The Applicant is entitle to a refund of the 30% of the tax in dispute that was paid to the Respondent.

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Dated at Kampala this.....17th.....day of December 2024.

MS. CRYSTAL KABAJWARA	**MRS. CHRISTINE KATWE**	**MS. KABAKUMBA MASIKO**