

**Reference No. 6 of 2020 Ola Energy Uganda v. The Attorney General of the Republic of Uganda**

**Coming up for judgment on:** Friday 11th October, 2024

**Reference filed on:** 1st April 2020.

**Articles:** 5(3), 6(d), 7(c), 75, 75(4), 75(6), 80(1)(f) of the Treaty for the Establishment of East African Community and Article 2(4)(a), 3(d), 14(1), 4, 4(1)(b) of the East Africa Community Customs Protocol.

**Rules:** Rule 2, 4(1)(b), 4(2), 6 of the east Africa community Rule of origins and Part 1 of the first schedule to the east Africa community rules of origin.

**Subject matter:** Alleged breach of EAC Rules of Origin for preferential treatment of goods

The Applicant a company engaged in the business of sale and marketing of petroleum products alleges that on 31st January 2020 the Respondent through its agents wrongfully various petroleum products imported from OLA Energy Kenya Limited, the Applicant's parent company in Kenya, did not meet the requirements under the EAC Rules of Origin for preferential treatment, and sought to levy import duty on the products which the Applicant argue qualify to get preferential treatment. The Applicant alleges that the declaration contravenes and infringe provisions of the EAC Treaty, of the EAC Customs Union, of the EAC Common Market Protocol and of the 1st Schedule of the Rules of Origin.

The applicant pray for declaration that decision made by respondent agent on 31st January 2020 infringe the provision of Article 5(3), 6(d), 7(c), 75, 75(4), 75(6), 80(1)(f) of the Treaty for the Establishment of East African Community, Rule 2, 4(1)(b), 4(2), 6 of the east Africa community Rule of origins and Part 1 of the first schedule to the east Africa community rules of origin and that decision are unlawful, irregular, ultra vires, null and void.

The Applicant prays for the orders that a permanent injunction do issue restricting the Respondent's agents/employees from enforcing that unlawful action and for costs of this Reference.

The Respondent's State contend that its decision through the Uganda Revenue Authority does not violate and infringe the Treaty, Customs Union Protocol and the Schedule on the EAC Rules of Origin. That after doing a Post Clearance Audit on the Applicant's Company and discovered that the products originated mainly from United Arab Emirates, India and Saudi Arabia which mean some items imported by Applicant were not wholly produced in Kenya and that the Applicant had under declared the sale of hoses imported in 2013, 2014, 2015 and the extra hoses sold. That the Applicant failed to provide any information proving that the manufacturing or any value addition was made to the products in question.

The Respondent prays that the Reference be dismissed with costs.

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