

**REPUBLIC OF KENYA**  
**IN THE TAX APPEALS TRIBUNAL**  
**APPEAL NO. 119 OF 2018**

**AUTOEXPRESS LIMITED..... APPELLANT**

**-VERSUS-**

**COMMISSIONER CUSTOMS &  
BORDER CONTROL ..... RESPONDENT**

**JUDGMENT**

**BACKGROUND**

1. The Appellant is a limited company whose principal business is the importation and selling of automotive parts including wheels, batteries, suspension parts, lubricants and other car accessories.
2. The Respondent is a principal officer of the Kenya Revenue Authority, appointed under Kenya Revenue Authority Act Cap 469, of the Laws of Kenya and whose mandate includes assessment, collection, accounting and general administration of tax revenue on behalf of the Government of Kenya.
3. The Appellant complained to the Respondent about unfair competition occasioned by smuggling and under-invoicing of imported tyres by unscrupulous traders and competitors and that this practice was harming the Appellant's business.
4. The Respondent, in 2006, acknowledged that there were issues with the valuation of tyres imported from China, importers valued the tyres at different

prices regardless of the fact that the goods were either identical or similar and originated from the same Country.

5. Additionally, the Respondent concluded that values of the tyres declared by the various importers, including the Appellant, were too low and therefore decided to harmonize the values to avoid unfair trade and undervaluation of tyres.
6. In doing so, the Respondent decided to use the identical and similar goods methods of valuation on the grounds that the values declared by the importers were lower than expected.

### **APPELLANT'S CASE**

7. The Appellant contends that its business has been adversely affected by unfair uplifts of duty as a result of the Respondent's actions despite its business activities being above board and having provided the Respondent with all the necessary documents to justify and support its transaction value. Furthermore, that the Respondent caused it excessive delay in processing the Appellant's import documents resulting in the Appellant incurring demurrage costs.
8. The Appellant submits that the Respondent's actions cost it an extra **Kshs. 51,761,237.00** in uplifts in duty and demurrage charges.
9. The Appellant also submits that it made attempts to resolve the matter, including:
  - (i) Holding meetings with the Respondent's representatives wherein it protested the uplifting of import duty and related demurrage fees incurred as a result of processing delays caused by the Respondent.

- (ii) Writing to the Respondent and appealing against the uplifts on the unit values of imports; and
- (iii) By providing all the necessary supporting documents to demonstrate the transaction value of the imported goods, i.e. the commercial invoice, packing list, bill of lading and proof of payment to the supplier.

10. The Appellant alleges that the Respondent did not respond to any of the letters of appeal despite the fact that they had been lodged within the 30 days timeframe prescribed by the law.

11. The Appellant therefore decided to make an application for refund of duty on 9<sup>th</sup> June 2017, but its application was rejected by the Respondent. In a letter dated 28<sup>th</sup> February 2018, the Respondent dismissed the Appellant's application for review of the transaction value and refund of tax paid in error.

12. Aggrieved by the Respondent's decision and actions, the Appellant filed its Notice of Appeal on 12<sup>th</sup> March 2018.

### **RESPONDENT'S CASE**

13. The Respondent acknowledges that the Appellant raised an issue about unscrupulous traders importing tyres from China who were under-declaring prices and consequently paying lower duties.

14. The Respondent however contends it determined that there was an issue with the valuation of tyres imported from China. Importers valued the imports at different prices irrespective of the fact that the goods were similar and originated from the same country.

15. That the declared values, including those by the Appellant, were too low and the Respondent determined that there was a need to harmonize values in order to address unfair trade and undervaluation of tyres.
16. The Respondent further contends that for the reasons mentioned hereinabove it decided to subject all tyres to valuation in order to determine their true values for importation purposes. The Respondent also decided to adopt the identical and similar goods method of valuation in accordance with Section 122 of EACCMA where it was of the view that the values declared by the importer were lower than expected.

### **SUBMISSIONS BY THE PARTIES**

#### **A. On the Respondent's decision not to use the Transaction Value Method, uplift and demand duty on the Appellant's goods**

17. The Appellant submits that the EACCMA is clear on the determination of value for customs purposes. Section 122(1) of the Act provides that:

***"Where imported goods are liable to import duty ad valorem, then the value of such goods shall be determined in accordance with the Fourth Schedule and import duty shall be paid on that value."***

18. The Appellant submits that the upshot of Section 122 of EACCMA is that the Fourth Schedule is the reference point in determining the value of imported goods liable to *ad valorem* import duty, and that the Fourth Schedule provides for 6 methods of valuation in determining customs value of imported goods, namely:

- (i) The Transaction Value Method (Method 1/ the Primary Method)
- (ii) The Transaction Value of Identical Goods Method (Method 2)
- (iii) The Transaction Value of Similar Goods Method (Method 3)

- (iv) The Deductive Value Method (Method 4)
- (v) The Computed Value Method (Method 5)
- (vi) The Fall-back Value Method (Method 6)

19. The Interpretative Notes in Part II of the Fourth Schedule (“Interpretative Notes”) set out the applicability of the valuation methods, i.e. that they must be applied in their sequential order, i.e.:

- (i) Method 1 must be attempted first
- (ii) Method 2 can only be considered if value cannot be determined under the first method
- (iii) Methods 3 to 6 follow the same procedure
- (iv) Method 6 can only be applied where all the previous methods are not applicable
- (v) The only exception is that the sequence of Methods 4 and 5 may be reversed, but at the request of the importer. A customs officer cannot decide to reverse the order of the methods.

20. It is the Appellant’s view that the Respondent’s decision to compute the customs value of imported goods using a different method without following the sequence outlined above contravenes Section 122(1) of EACCMA and Paragraph 2(1) and 9 of the Fourth Schedule. Paragraph 2(1) provides that:

***“The customs value of imported goods shall be the transaction value, which is the price actually paid or payable for the goods when sold for export to the Partner State adjusted in accordance with the provisions of Paragraph 9, but where.....”***

21. That Paragraph 9 provides that the transaction value of imported goods is the total price paid or payable for the imported goods when sold for export to the

Partner State in the ordinary course of trade under fully competitive conditions. The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller of the imported goods and includes all payments made as a condition for sale of the imported goods by the buyer to the seller.

22. The Appellant contends that the provisions of Paragraph 2(1) of the Fourth Schedule are couched in mandatory terms by virtue of the use of the word “shall”. According to Black’s Law Dictionary (9<sup>th</sup> Edition), the word “shall” generally connotes an imperative or mandatory term.
23. The Appellant submits that the East African Customs Valuation Manual (“the Manual”), at Paragraph 2.0 also provides for the six methods of valuation and specifies that they be applied in sequential order. That Method 1 should be applied in the first instance and the succeeding methods may only be considered where the value cannot be determined using the first method, a position that is consistent with the provisions of the Fourth Schedule of EACCMA.
24. The Appellant has relied on the Ugandan case of **Testimony Motors Limited -Vs-The Commissioner of Customs (Uganda Revenue Authority) (2012) HC Civil Suit No.212**, where the Commissioner of Customs suspended the operation of the Transaction Value Method for all used vehicles and opted for an alternative method. The High Court however affirmed the position that the Transaction Value Method must always be used except in very exceptional circumstances. The court stated *inter alia* that:

***“...I agree with the plaintiff’s submission that section 122 of the East African Community Customs Management Act, 2004 subsection 1 thereof, is couched in mandatory terms. It provides that the value of***

*such goods shall be determined in accordance with the fourth schedule and import duty shall be paid on that value. It does not give any discretionary powers on the Commissioner to rely on alternative methods without following the procedure or directives laid out in the fourth schedule. The primary method which was agreed upon is the method that must first be attempted. It is only upon failure of the primary method that alternative methods can be applied....”*

25. Furthermore, the Appellant submits, that The Respondent has contravened Article 210(1) of the Constitution of Kenya, 2010 which stipulates that, ***“No tax or licensing fee may be imposed, waived or varied except as provided by legislation.”***

26. That the principle that no tax shall be levied except as provided by statute was well established in the case of Cape Brandy Syndicate-Vs-Inland Revenue Commissioner [1921] 1 Kb 64. Rowlatt, J, stated that:

*“.....one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.”*

27. It is the Appellant’s contention that the Respondent’s unilateral decision to uplift duty violated the Appellant’s Constitutional right for fair administrative action as provided for under Article 47 of the Constitution and Section 4(1) of the Fair Administrative Action Act.

Section 4(1) of the Fair Administrative Action Act provides that:-



***“Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.”***

28. The Appellant’s prayer is that the Respondent be compelled to refund the duties as per the Appellant’s application dated 9<sup>th</sup> June 2017 and as provided for by Section 144(1) (b) of EACCMA. Section 144(1) (b) states as follows-

***“Subject to any regulations, the Commissioner shall refund any Customs duty paid on the importation of the goods —  
(b) of any import or export duty which has been paid in error.”***

29. The Respondent’s argument, on the other hand, is that it sought to ensure that tyres were valued correctly to address the issue of unscrupulous traders. That the correct value of goods is important in the calculation of duty payable to avoid either under-payment or over-payment of taxes.

30. It is the Respondent’s contention that Section 122 and the Fourth Schedule of EACCMA provides the various valuation methods that it may rely on when determining the value of imported goods.

31. The Respondent avers that the discounts the Appellant claims to have been given by the seller due to the volume of tyres purchased were in the Respondent’s view erratic and did not match the purchases. That the Appellant did not produce documentation supporting the discounts and the high discrepancies were unexplained and could not be accounted for.

32. The Respondent also relied on the Customs Manual on Valuation of May 2019, Paragraph 3.8 which states:



*“Where the value is based on the invoice price, certain deductions are normally allowable provided the deductions are clearly distinguished in the documents produced.”*

***Discounts.*** *These can only be left out where they relate to the imported goods being valued and there is a valid contractual entitlement to the discount at the material time for valuation. Discounts (such as contingency or retroactive discounts) related to previous importations cannot be claimed in full on the current importation.*

33. According to the Respondent, the Appellant did not provide any evidence to prove the discounts, and the sums or percentages which were given. The discounts are not contractual entitlement and cannot be distinguished.
34. That in any case, the Respondent submits that discounts are supposed to be added back to the price paid for the tyres in order to determine the customs value of the tyres and therefore the uplifts are legal and there are no taxes owing.
35. The Respondent further submits that there was a reasonable cause to doubt the transaction value given by the Appellant and therefore chose to use the second valuation method.
36. That Section 122(4) empowers the Respondent to satisfy itself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

***S.122 (4) – “Nothing in the Fourth Schedule shall be construed as restricting or calling into question the rights of the proper officer to satisfy himself or herself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.”***

37. The Respondent submits that in the case of Gira Enterprises-Vs-Commissioner of Customs on 23 August, 2005 (Customs, Excise And Gold Tribunal – Mumbai), the Tribunal held that:

*“The transaction value has been defined to be the actual price paid or payable. The declared value may not represent the transaction value in every case. When the declared value is ridiculously low compared to the ordinary competitive price of comparable goods contemporaneously imported, such declared values cannot be adopted as customs value. In such cases, the transaction value method is clearly inapplicable as the declared value does not conform to the requirement of the said Section 14(1). Valuation by adopting value of comparable goods contemporaneously imported is an equally efficacious method of valuation. Such valuation is also perfectly legal as has been held by the Hon'ble Supreme Court and various Tribunal Benches vide various decisions cited by the learned S.D.R. and listed in Paragraph 4 above. .... When the declared value is ridiculously low compared to the ordinary competitive price of comparable goods contemporaneously imported, such declared values cannot be adopted as customs value.”*

38. In the Respondent's view, the value of tyres purchased by the Appellant were distinctively low in comparison to the ordinary competitive price of identical tyres and the Respondent's pricing schedule. It is for this reason that the Respondent opted for the second method of valuation.

39. The Respondent also makes reference to Article VII of the General Agreement of Tariff and Trade (GATT) 1994 (“WTO Customs Valuation Agreement”). Paragraph 2(b) thereof defines the “actual value” as follows:

***“Actual value” should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.”***

40. The Respondent submits that where the price of goods imported is affected by factors external to the goods themselves, the use of the first method is precluded and one ought to use the second method.
41. That the Respondent relied on the Transaction Value of Identical Goods method – value of identical goods sold for export to the Partner State and exported at or about the same time as the goods being valued. The prices ought to have been similar and should not have had high variations in ascertaining the value of the goods.
42. The Respondent also refutes the assertion that it had no powers to depart from the Transactional Value Method and that the use of “shall” in Paragraph 2(1) of the Fourth Schedule mandates the use of the Transactional Value Method. According to the Respondent;

“ (i) If the Transactional Value Method was mandatory, there would be no need to provide for the other methods; and

(i) That all the valuation methods use the word “shall”, which would mean that all the methods are mandatory.”

43. The Respondent asserts that the reason for sequence is to allow it to depart from the Transaction Value Method, if it is dissatisfied with it and there is reasonable cause to do so as is the case herein.

44. With regard to demurrage costs, the Respondent submits that at all times it acted in good faith and within its powers. That without prejudice to its case the Appellant was at liberty to remove its goods upon expiry of the free days upon giving security for the taxes to avoid incurring demurrage in accordance with Section 122(3) of EACCMA as quoted below:-

*S.122(3) – “Where, in the course of determining the customs value of imported goods, it becomes necessary for the Customs to delay the final determination of such customs value, the delivery of the goods shall, at the request of the importer be made:*

*Provided that before granting such permission the proper officer may require the importer to provide sufficient guarantee in the form of a surety, a deposit or some other appropriate security as the proper officer may determine, to secure the ultimate payment of customs duties for which the goods may be liable.”*

45. The Respondent submits that it is the Appellant's duty to ensure the goods are released after expiry of 21 free days and that the aim of demurrage charges is to ensure that the goods are removed from the warehouse as soon as practicable to avoid congestion and ensure ease of movement.

46. The Respondent posits that the only recourse available to the Appellant in respect of the demurrage charges is to apply for a waiver to the Cabinet Secretary, Treasury.

**B. Whether or not the Appellant's application for review of the transaction value and refund of taxes was out of time?**

47. The Appellant contends that it filed its application for review within the stipulated timelines but did not receive any feedback from the Respondent despite several calls and reminders. That it followed up the matter in writing and appealed against the uplifts on unit values of imports as they did not reflect the true value of the imported goods.

48. The Appellant contends that Section 229 of EACCMA provides an appeal mechanism process for any person aggrieved by the Commissioner's decision. Section 229(1), (4) and (5) provide as follows:-

*S.229(1): - "A person directly affected by the decision or omission of the Commissioner or any other officer on matters relating to Customs shall within thirty days of the date of the decision or omission lodge an application for review of that decision or omission."*

*S.229(4): - "The Commissioner shall, within a period not exceeding thirty days of the receipt of the application under subsection (2) and any further information the Commissioner may require from the person lodging the application, communicate his or her decision in writing to the person lodging the application stating reasons for the decision."*

*S. 229(5) - "Where the Commissioner has not communicated his or her decision to the person lodging the application for review within the time specified in subsection (4) the Commissioner shall be deemed to have made a decision to allow the application."*

49. It is therefore the Appellant's contention that since no decision was made and communicated to it, the Commissioner is deemed, by operation of law, to have

allowed its application for recovery of the excess taxes paid and that the Respondent, being a creature of statute, is bound to exercise its powers in accordance with the law.

50. The Respondent however submits that whereas Section 229 of EACCMA provides an avenue for an appeal by any person aggrieved by the Respondent's decision, the Appellant's application for review was invalidly lodged by virtue of being out of time and was therefore, inadmissible.

51. The Respondent avers that the EACCMA takes precedence over all Acts guiding Customs law and gives a 30-day window for applications for review and that the Appellant did not qualify for late objection under Section 229(3).

52. The Respondent also submits that it is under no obligation to respond to applications for review that are out of time and cannot be faulted for stating that the application had been declined by virtue of being out of time.

53. That the EACCMA, unlike the Tax Procedures Act, does not put any burden on the Respondent to inform a taxpayer that the application is erroneous and it ought to be amended. The fact the Appellant did not provide the message number issued to it when the application for review was generated means there is no valid application.

54. Nonetheless, the Respondent submits that, in a letter dated 28<sup>th</sup> February 2018, it replied to the Appellant's application for review despite the application being out of time.

55. The Respondent further contends that under the Simba System, any application must be given a message number through which the application is

generated and replied to and the Appellant has not provided the message numbers to support its claim.

### **ISSUES FOR DETERMINATION**

56. The Tribunal has framed the following to be the issues for determination:

- i. **Whether the Respondent is liable to pay the demurrage incurred by the Appellant?**
- ii. **Whether the Respondent's decision not to use the Transaction Value Method and uplift duty on the Appellant's goods was lawful?**
- iii. **Whether or not the Appellant's application for review of the transaction value and refund of extra taxes paid was out of time?**

### **ANALYSIS AND FINDINGS**

- i. **Whether the Respondent is liable to pay the demurrage incurred by the Appellant?**

57. The matter relating to refund of demurrage falls outside the jurisdiction of this Tribunal. The Appellant should seek redress before the appropriate ampere.

- ii. **Whether the Respondent's decision not to use the Transaction Value Method and uplift duty on the Appellant's goods was lawful?**

58. Section 122(1) of EACCMA (*supra*) stipulates that customs valuation for imported goods liable to *ad valorem* duty shall be determined in accordance with the Fourth Schedule.

59. Paragraph 2 of Part 1 of the Fourth Schedule specifies that the customs value of imported goods shall be the transaction value, which is the price actually paid or payable for the goods when sold for export to the Partner State.

60. Paragraph 2 provides that the customs value shall be the transaction value provided the following conditions are met, i.e.:



- (i) that there are generally no restrictions on the disposition or use of the goods by the buyer,
- (ii) that the sale price or price is not subject to conditions or considerations for which a value cannot be determined,
- (iii) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller and the buyer, and
- (iv) that buyer and seller are not related, or where the buyer and seller are related that the transaction value is acceptable for customs purposes under the provisions of subparagraph (2). The paragraph also spells out the adjustments to be made to the value and these are found in Paragraph 9.

61. “Price” is defined in the Interpretative Notes (Part II of the Fourth Schedule) as, *“the price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods”*, and includes all payments made as a condition of sale of the imported goods by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

62. Part 1 of the Fourth Schedule of EACCMA lists the various methods of valuation whereas the Interpretative Notes (Part II of the Schedule), stipulate that the methods of valuation are to be applied in a sequential order and the primary method of customs valuation is the Transaction Value Method.

63. The Respondent has argued that the Appellant had under-valued its goods and hence the Transaction Value Method was not applicable. That the Respondent had reasonable cause to doubt the Appellant’s valuation and therefore proceeded to apply the identical and similar goods method for valuation.

64. In this regard, the Respondent has relied on Section 122(4) of the EACCMA which gives a customs officer the right to satisfy themselves as to the truth or accuracy of any statement, document or declaration. This position is also supported by Article 17 (Text 1.1) of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994 (also known as the WTO Customs Valuation Agreement).
65. The Tribunal however notes Text 1.2 of Article 17 of the WTO Customs Valuation Agreement recommends that certain procedures should be observed in such instances.

Text 1.2 - *“Decision regarding cases where Customs Administrations have reasons to doubt the truth or accuracy of the declared value”* - not only re-affirms that the transaction value is the primary basis of valuation, but recommends that, as a first step, Customs should ask the importer to provide further explanation that the declared value represents the total amount actually paid or payable for the imported goods. If reasonable doubt still exists after receiving additional information (or in absence of a response), Customs may decide that the value cannot be determined according to the transaction value method. However, before a final decision is taken, Customs must communicate its reasoning to the importer, who, in turn, must be given reasonable time to respond. In addition, the reasoning of the final decision must be communicated to the importer in writing.

66. At its meeting of 12<sup>th</sup> May 1995, the Committee on Customs Valuation adopted the following decision:

***“When a declaration has been presented and where the customs administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration,***

*the customs administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Article 8. If, after receiving further information, or in the absence of a response, the customs administration still has reasonable doubts about the truth or accuracy of the declared value, it may, bearing in mind the provisions of Article 11, be deemed that the customs value of the imported goods cannot be determined under the provisions of Article 1. Before taking a final decision, the customs administration shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a reasonable opportunity to respond. When a final decision is made, the customs administration shall communicate to the importer in writing its decision and the grounds therefor.”*

67. In placing reliance on the procedures recommended under Article 17, the Tribunal takes cognizance that Section 122(6) of EACCMA allows one to take due regard to the decisions, opinions, rulings, guidelines and interpretations from WTO or the Customs Cooperation Council when interpreting or applying provisions of the Fourth Schedule.

*S.122 (6)- “In applying or interpreting this section and the provisions of the Fourth Schedule due regard shall be taken of the decisions, rulings, opinions, guidelines, and interpretations given by the Directorate, the World Trade Organisation or the Customs Cooperation Council.”*

68. Whereas the Respondent has argued that its decision to depart from the Transaction Value Method was because it had reasonable cause to doubt the values declared by the Appellant, it has not placed any evidence before the Tribunal to support this claim. Neither has the Respondent showed or demonstrated to the Tribunal that it observed the procedure recommended under Article 17 (Text 1.2) or due process as envisaged under fair administrative action provisions.

69. The Tribunal reiterates the decision made in Testimony Motors Limited-Vs- The Commissioner of Customs (Uganda Revenue Authority) (2012) HC Civil Suit No.212, i.e.:

*“...That Section 122(1) is couched in mandatory terms. It provides that the value of such goods shall be determined in accordance with the Fourth Schedule and import duty shall be paid on that value. It does not give any discretionary powers on the Commissioner to rely on alternative methods without following the procedure or directives laid out in the Fourth Schedule. In other words, it is the price paid for the goods by the buyer or importer which forms the basis for assessing the customs duty payable on the goods.....”*

70. It is therefore the Tribunal’s view that the Respondent’s erred in law by departing from Transactional Value Method in valuing the Appellant’s goods without according the Appellant an opportunity to justify the values declared. The Respondent’s decision was contrary to the Fourth Schedule and Article 17 of WTO Customs Valuation Agreement and violated the Appellant’s rights to a fair administrative action as provided for by the Constitution and the Fair Administrative Action Act.

**iii. Whether or not the Appellant's application for review of the transaction value and refund of extra taxes paid was out of time?**

71. It is not in dispute that Section 229 of EACCMA provides an appeal mechanism by any person aggrieved by the Commissioner's decision or omission by making an application for review of that decision. The complainant is required to lodge an appeal within 30 days after the decision or omission whereas the Commissioner is also mandated to respond within 30 days upon receiving the application for review. Section 229(4) also allows a late appeal in the event that the complainant was absent from the country, sick or for any other reasonable cause.

72. The Tribunal has considered both the Appellant's and Respondent's pleadings, but is unable to conclusively determine whether or not the Appellant submitted its application for review within the stipulated time frame. Similarly, the Tribunal is unable to establish if the Commissioner failed to respond to the Appellant's application within the time required.

73. For the above reason, the Tribunal is unable to make a conclusive determination on whether or not the application was submitted and if the Commissioner failed to respond within the required time.

74. In order that justice is done to the parties, the Tribunal invokes Section 29 (2) (ii) of the Tax Appeals Tribunal Act and directs that the Respondent proceeds to revalue the goods in strict compliance with Section 122, and the 4<sup>th</sup> Schedule of EACCMA and other related laws and international conventions, guidelines and manuals.



## **FINAL ORDERS**

The Tribunal issues the following Orders:

- a. The Respondent re-assesses the customs duty payable by the Appellant in respect of the imports in dispute within 60 days from the date hereof.
- b. Each party to bear its own costs.

**DATED** and **DELIVERED** at **NAIROBI** this <sup>4<sup>th</sup></sup> **28<sup>th</sup>** day of **August, 2020**



.....  
**PATRICK LUTTA**  
**CHAIRPERSON**



.....  
**HELEN BILA**  
**MEMBER**



.....  
**MWAI MBUTHIA**  
**MEMBER**



.....  
**ELISHAH NJERU**  
**MEMBER**