MUREBWAYIRE v. IKIGO CY’IMISORO N’AMAHÔRO (RRA)

[Rwanda URUKIKO RUKURU – RADA00004/2018/HC/KIG (Hitimana, P.J.) 27 Mata 2018]

Irangiza ry’imanza – Impaka zishingiye ku irangiza ry’urubanza – Impaka zishingiye ku irangiza ry’urubanza ryaba riri gukorwa cyangwa ryararangiye zikemurwa n’urukiko rwaruciye bwa nyuma cyangwa urwemeje ko urubanza rwo mu mahanga rurangirizwa mu Rwanda.

Irangiza ry’imanza – Kudahindura urubanza – Urubanza rugomba kurangizwa uko rwaciwe n’inzego zose bireba mu gihe nta nzira y’ubujurire yiyambajwe ngo ihindure ibyemejwe muri urwo rubanza.

Incamake y’ikibazo: Murebwayire yareze Ikigo cy’Imisoro n’amahôro mu Rukiko Rwisumbuye rwa Nyarugenge nyuma yaho cyimwirukanye ku kazi. Urwo Rukiko rwategetse icyo kigo kumuha imishahara y’amezi atatu atigeze ahabwa, indishyi zo kwirukanwa binyuranije n’amategeko, insimburakiruhuko, indishyi z’akababaro, amafaranga y’ikurikiranarubanza n’igihembo cya avoka, no gusubizwa ingwate y’igarama yatanze. Ikigo cy’Imisoro n’amahôro cyajuriye mu Rukiko Rukuru, narwo rwemeza ko amafaranga y’insimburakiruhuko ntayo kigomba kumuha ahubwo rutegeka icyo kigo kumuha igihembo cya avoka ku rwego rw’ubujurire kandi rwemeza ko ku bindi nta gihindutse.

Murebwayire yaregeye Urukiko Rukuru avuga ko impaka zavutse mu irangizwa ry’urubanza ubwo Ikigo cy’Imisoro n’amahôro cyavugaga ko amafaranga cyategetswe n’Urukiko hagomba kuvanamwo amafaranga y’umusoro, ay’ubwiteganyirize, n’ayo kwivuza kubera ko indishyi yahawe zabariwe ku mushahara mbumbe, Murebwayire, we akaba avuga ko agomba guhabwa amafaranga yose nk’uko Urukiko rwayategetse.

Ikigo cy’Imisoro n’amahôro cyatanze inzitizi y’iburabubasha kivuga ko ikibazo kigomba gusuzumwa kijyanye no kumenya niba aya mafaranga yakurwaho umusoro kitari mu bubasha bwarwo ahubwo kiri mu bubasha bw’inkiko z’ubucuruzi, gitanga n’indi nzitizi ivuga ko ikirego kidakwiye kwakirwa kubera ko cyatanzwe impitagihe.

Murebwayire we avuga ko itegeko rivuga ko impaka zivutse mu irangizwa ry’urubanza zikemurwa n’Urukiko rwaruciye bwa nyuma kandi ko nta gihe ntarengwa giteganywa n’itegeko ikirego kigomba kuba cyatanzwemo, bityo uru Rukiko nirwo rufite ububasha bwo kuburanisha iki kirego, Urukiko narwo rwasanze izo nzitizi zombi zidafite ishingiro, bityo rutegeka ko urubanza rukomeza kuburanishwa mu mizi.

Murebwayire avuga ko nyuma y’imanza yaburanye n’Ikigo cy’Imisoro n’amahôro, yasabye ko cyakwishyura ibyo yatsindiwe mu rubanza, ariko imisubiza ko igiye kwishyura 1.017.867Frw, na ay’amezi 3 atahembwe, kandi nyamara Urukiko rwarategetse ko ayo mafaranga ahwanye na 1.577.019Frw, indishyi z’amezi atandatu zatanzwe zihwanye na 4.731.060Frw Ikigo cy’Imisoro n’amahôro cyatanze 3.005.604Frw, indishyi z’akababaro zo zatanzwe uko zakabaye, kimwe n’amafaranga y’ikurikirana rubanza n’igihembo cya avoka, kimwe n’ingwate y’igarama. Ibi bivuze ko RRA yagombaga kwishyura 8.658.079Frw nyamara yishyuye 6.073.471Frw, bityo ashingiye kw’ Itegeko Nshinga rya Repubulika y’u Rwanda mu ngingo ya 151 agace ka 4 aho ivuga ko ibyemezo by’ubucamanza bigomba gukurikizwa n’abo bireba bose, zaba inzego z’ubutegetsi bwa Leta cyangwa abantu ku giti cyabo, ko bidashobora kuvuguruzwa cyeretse binyuze mu nzira no mu buryo buteganijwe n’amategeko, bityo asaba ko icyo kigo cyamwishyura 2.584.608Frw yasigaye ku yo yagenewe n’Urukiko.

RRA ivuga ko indishyi z'amezi 6 yagenewe zabariwe ku mushahara mbumbe, rwemeza ko mu gihe cyo kumwishyura ushinzwe kwishyura agomba gukura muri uwo mushahara ibiteganywa n'amategeko Ibi ngo byatumye mu gushyira iki cyemezo cy'urukiko mu bikorwa, RRA yabaze indishyi n'imishahara zamugenewe habanje kuvanwamo ibyo amategeko ateganya bigizwe n'umusoro ku mishahara (TPR), CSR na RAMA.

Incamace y'icyemezo: 1. Impaka zishingiye ku irangiza ry'urubanza ryaba ririgukorwa cyangwa ryararangiye zikemurwa n'urukiko rwaruciye bwa nyuma cyangwa urwemeje ko urubanza rwo mu mahanga rurangirizwa mu Rwanda.

2. Amafaranga 1.577.019 ahwanye na 2/3 y'imishahara urega atahawe niyo agomba guhabwa hakuwemo ibyo amategeko ateganya kuko ayo mafaranga yabariwe ku mushahara mbumbe.

3.Urubanza rugomba kurangizwa uko rwaciwe n'inzego zose bireba mu gihe nta nzira y'ubujurire yiyambajwe ngo ihindure ibyemejwe muri urwo rubanza. Bityo urega agomba guhabwa indishyi zose uko zagenwe n'urukiko.

4. Amafaranga y'igihembo cy'avoka agenwa mu bushishozi bw'urukiko iyo ayo umuburanyi asabye ari ikirenga.

Inzitizi y'iburabubasha n'iyo kutakira ikirego nta shingiro zifite.
Amafaranga 1.577.019 ahwanye na 2/3 y'imishahara urega atahawe niyo agomba guhabwa hakuwemo ibyo amategeko ateganya, andi mafaranga yagenwe n'Urukiko agomba kuyahabwa yose.
Amagarama aherereye kw'Isanduku ya Leta.

Amategeko yashingiweho:
Itegeko Ngenga N°03/2012/OL ryo kuwa 13/06/2012, rigena imiterere, imikorere n'ububasha by'urukiko rw'Ikirenga, ingingo 47.
Itegeko N°21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 208.

Imanza zifashishijwe:
Ntukamazina v Prime Insurance Ltd (Ex-COGEAR Ltd), RSOC00001/2016/CS, rwaciwe n'Urukiko rw'Ikirenga kuwa 20/01/2017.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Murebwayire Justine yahoze ari umukozi wa Rwanda Revenue Authority aza kwirukanwa, arega RRA mu rubanza RAD00193/2016/TGI/NYGE ko yamwirukanye mu buryo bunyuranyijwe n'amategeko, urubanza rucibwa ku wa 08/11/2016, Urukiko Rwisumbuye rwa Nyarugenge rutegeka ko RRA iha Murebwayire Justine ibi bikurikira - Imishahara y'amezi atatu atigeze ahabwa ihwanye na 1.577.019Frw, indishyi zo kwirukanwa binyuranije n'amategeko zihwanye na 788.510Frw (Umushahara we mbube) x 6 = 4.731.060Frw, insimburakiruhuko ya 2011, 2012, na 2013 zihwanye na

788.510Frw x 3 = 2.365.530Frw, n'indishyi z'akababaro zihwanye na 1.000.000Frw, amafaranga y'ikurikiranarubanza n'igihembo cya avocat bihwanye na 1.000.000Frw, no gusubizwa ingwate y'igarama ya 50.000Frw, yose hamwe akaba 10.673.609Frw + 50.000Frw.

[2] RRA yajuririye iyo mikirize y'urubanza muri uru Rukiko, rwemeza ko amafaranga 2.365.530 RRA yari yategetswe guha Murebwayire Justine nk'insimburakiruhuko ya 2011, 2012 na 2013 ntayo igomba kumuha, rutegeka RRA guha Murebwayire Justine igihembo cya avocat ku rwego rw'ubujurire gihwanye na 300.000Frw, rwemeza ko ku bindi nta gihindutse.

[3] Impaka zavutse mu irangizwa ry'urubanza ni amafaranga RRA ikata kuri aya mafaranga Urukiko rwayitegetse kwishyura Murebwayire Justine, we akaba avuga ko agomba guhabwa amafaranga yose nk'uko Urukiko rwayategetse, RRA yo ikavuga ko hagombaga kuvaho amafaranga y'umusoro, ay'ubwiteganyirize, n'aya RAMA, kubera ko indishyi Murebwayire Justine yabariwe, zabariwe ku mushahara mbumbe.

[4] Uhagarariye RRA yatanze inzitizi avuga ko uru Rukiko nta bubasha rufite bwo gukemura iki kibazo, kuko ari ikibazo kijyanye no kumenya niba aya mafaranga yakurwaho umusoro, ibyo bikaba bitari mu bubasha bwarwo. Yatanze n'indi nzitizi ivuga ko ikirego kidakwiye kwakirwa kubera ko Murebwayire Justine yagitanze akererewe.

[5] Harasuzumwa niba uru Rukiko rufite ububasha bwo kuburanisha ikirego cya Murebwayire Justine. Mu gihe rwaba rufite ububasha, harasuzumwa niba hari igihe ntarengwa cyashyizweho n'itegeko cyo kuregera impaka zavutse mu irangizwa ry'urubanza, no kumenya niba kitarubahirijwe ku buryo byatuma ikirego cya Murebwayire kitakirwa. Mu gihe ikirego cyaba cyakiriwe, harasuzumwa niba RRA yemerewe gukura amafaranga y'umusoro, ay'ubwiteganyirize bw'umukozi n'ayo ubwishingizi bwo kwivuza ku ndishyi urukiko rwayitegetse guha Murebwayire Justine.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA.

A. Kumenya niba hari urukiko rwaciye urubanza bwa nyuma arirwo rufite ububasha bwo gukemura impaka zavutswe mu irangizwa ry'urubanza, hatitawe ku kibazo izo mpaka zishingiyeho.

[6] Uhagarariye Rwanda Revenue Authority avuga ko uru Rukiko nta bubasha rufite, kubera ko mu mafaranga yari yategetswe n'urukiko, yabariwe ku mushahara mbumbe, hakaba haragombaga kuvamo umusoro, amafaranga y'ubwiteganyirize bw'abakozi, n'amafaranga y'ubwishingizi bw'indwara muri RAMA, ikibazo cyo kumenya niba ayo mafaranga yavanwaho cyangwa atavanwamo kikaba kiri mu bubasha bw'inkiko z'ubucuruzi.

[7] Uhagarariye Rwanda Revenue Authority avuga ko ukurikije uko ikirego cyiswe, "impaka zivutse mu irangizwa ry'imanza", ikirego kiri mu bubasha bw'urukiko Rukuru rwaciye urubanza, ariko na none ngo ibibazo bigomba gusuzumwa (matière) ntibiri mu bubasha bw'urukiko.

[8] Uhagarariye Murebwayire Justine avuga ko ingingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ivuga ko impaka zivutse mu irangizwa ry'urubanza zikemurwa n'Urukiko rwaruciye bwa nyuma, bityo ngo ibyo uhagarariye Rwanda Revenue Authority avuga ko ikirego kiri mu bubasha bw'inkiko z'ubucuruzi nta shingiro gifite.

UKO URUKIKO RUBIBONA.

[9] Urukiko rurasanga ibyo uhagarariye Rwanda Revenue Authority avuga, ko uru Rukiko nta bubasha rufite, nta shingiro bifite, kuko ikirego rugomba gusuzuma, ni icyo gukemura impaka zavutse mu irangizwa ry'urubanza. Nk'uko uhagarariye Murebwayire Justine abivuga, ingingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ivuga ko impaka zishingiye ku irangiza ry'urubanza ryaba riri gukorwa cyangwa ryararangiye zikemurwa n'urukiko rwaruciye bwa nyuma cyangwa urwemeje ko urubanza rwo mu mahanga rurangirizwa mu Rwanda. Ibyo uhagarariye Rwanda Revenue Authority avuga, ko ibyo Urukiko rugomba gufataho icyemezo, nko kumenya niba amafaranga yategetswe n'Urukiko yaragombaga gukurwaho umusoro, biri mu bubasha bw'inkiko z'ubucuruzi, nta shingiro bifite kuko icyo urukiko rwaregewe, kandi ari nacyo rugomba gukemura, ni ugukemura impaka zavutse mu irangizwa ry'urubanza, ibyo kandi biri mu bubasha bwarwo.

[10] Bityo iyi nzitizi nta shingiro ifite kuko urukiko rwaregewe arirwo rufite ububasha.

B. Kumenya niba hari igihe ntarengwa giteganywa n'itegeko ikirego cya Murebwayire justine cyagombaga gutangwamo.

[11] Uhagarariye Rwanda Revenue Authority avuga ko ikirego cya Murebwayire Justine kitagomba kwakirwa, kubera ko yagitanze akerewe, kuko ibirego nk'ibi bigomba gutangwa mu gihe kitarenze amezi abiri uhereye igihe irangizwa ry'urubanza rwakorewe, aya mezi abiri akaba ngo ateganywa n'ingingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[12] Uhagarariye Murebwayire Justine avuga ko iyi nzitizi nta shingiro ifite kubera ko ingingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, nta gihe ntarengwa ivuga ikirego kigomba kuba cyatanzwemo.

UKO URUKIKO RUBIBONA

[13] Urukiko rurasanga ibyo uhagarariye Rwanda Revenue Authority avuga ko ikirego cyatanzwe gikererewe nta shingiro bifite kuko ibyo avuga ko cyagombaga gutangwa mu gihe kitarenze amezi abiri urubanza rurangijwe atagaragaza aho abishingira mu mategeko, kuko ingingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi avuga ko ariyo igena igihe, ntaho igena icyo gihe cy'amezi abiri ikirego kigomba kuba cyatanzwemo. Bityo inzitizi ya Rwanda Revenue Authority nta shingiro ifite.

C. Gukemura impaka zavutse mu irangizwa ry'urubanza.

Kumenya niba RRA yemerewe gukura amafaranga y'umusoro, ay'ubwiteganyirize n'ay'ubwishingizi bwo kwivuza ku mafaranga y'imishahara Murebwayire Justine atahawe no ku ndishyi zo kwirukanwa mu buryo bunyuranyije n'amategeko Urukiko rwategetse ko ahabwa.

[14] Uhagarariye Murebwayire Justine avuga ko nyuma y'imanza yaburanye na Rwanda Revenue Authority, hakurikiyeho gusaba ko RRA yishyura ibyo yatsindiwe mu rubanza, nyamara mu ibaruwa yayo RRA yandikiye Murebwayire isubiza iyo yari yayandikiye, imumenyesha ko agiye kwishyurwa ibyo yatsindiye, RRA yanyuranije n'icyemezo cy'urukiko aho yikoreye ibyayo ikavuga ko igiye

kwishyura 1.017.867Frw y'amezi 3 atahembwe, kandi nyamara Urukiko Rwisumbuye rwarategetse ko ayo mafaranga ahwanye na 1.577.019Frw, indishyi z'amezi atandatu zatanzwe zihwanye na 4.731.060Frw, RRA yo yatanze 3.005.604Frw, indishyi z'akababaro zo zatanzwe uko zakabaye, kimwe n'amafaranga y'ikurikirana rubanza n'igihembo cya avocat, kimwe n'ingwate y'igarama. Ibi bivuze ko RRA yagombaga kwishyura 8.658.079Frw nyamara yishyuye 6.073,.471Frw, bivuze ko Murebwayire ayisabakumwishyura ikinyuranyo gihwanye na 2.584.608Frw. Hashingiwe ku ngingo ya 208 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, uhagarariye Murebwayire Justine ngo asanga hari impaka zavutse mu irangizwa ry'imanza zavuzwe haruguru kandi zikaba zikwiye kuburanishwa n'urukiko Rukuru kubera ko ari rwo rwaburanishije uru rubanza ku rwego rwa nyuma nk'uko biteganijwe niyi ngingo.

[15] Uhagarariye Murebwayire Justine avuga kandi ko hashingiwe ku Itegeko Nshinga rya Repubulika y'u Rwanda mu ngingo ya 151 agace ka 4 aho ivuga ko ibyemezo by'ubucamanza bigomba gukurikizwa n'abo bireba bose, zaba inzego z'ubutegetsi bwa Leta cyangwa abantu ku giti cyabo, ko bidashobora kuvuguruzwa cyeretse binyuze mu nzira no mu buryo buteganijwe n'amategeko. Bityo ngo RRA ntiyubahirije iyi ngingo ahubwo ikaba yaravuguruje ibyemezo by'urukiko mu buryo budakurikije amategeko, ikifatira ibyayo bijyanye n'ibyifuzo byayo.

[16] Uhagarariye Murebwayire Justine avuga ko ibyakozwe na RRA bitemewe n'amategeko nk'uko byagaragajwe mu rubanza RSOC00001/2016/CS mu gika cya 13 na 14, aho urukiko rwasanze nta bigomba gukatwa ku ndishyi zagenewe uwahoze ari umukozi ahubwo ibyemezo by'inkiko bigomba kurangizwa uko biri.

[17] Uhagarariye Rwanda Revenue Authority avuga ko Urukiko Rukuru mu cyemezo cyarwo RADA00183/HC/2016/HC/KIG mu gika cya 23 ku rupapuro rwa 11 urukiko rwarasobanuye ko indishyi z'amezi 6 zingana na 4.731.060Frw Murebwayire Justine yagenewe n'Urukiko rwa mbere zabariwe ku mushahara mbumbe, rwemeza ko mu gihe cyo kumwishyura ushinzwe kwishyura agomba gukura muri uwo mushahara ibiteganywa n'amategeko atabyishimira akaregera inkiko zifite ububasha (Reba urubanza RADA00183/HC/2016/HC/KIG, p. 11). Avuga ko mu mafaranga Murebwayire yagenewe, hari n'umushahara w'amezi atatu ungana na 2/3 mu gihe yari yahagaritswe by'agateganyo mu kwezi kwa gicurasi, Kamena na Nyakanga, urukiko rwamugeneye warabariwe ku mushahara mbumbe. Ibi ngo byatumye mu gushyira iki cyemezo cy'urukiko mu bikorwa, RRA yabaze indishyi n'imishahara zagenewe Murebwayire Justine, habanje kuvanwamo ibyo amategeko ateganya bigizwe n'umusoro ku mishahara (TPR), CSR na RAMA, bibazwe mu buryo bukurikira : - Ku mishahara y'amezi atatu (3) Murebwayire Justine atigeze ahabwa ingana na 1.577.019Frw havanywemo angana na 425.106Frw ajyanye na TPR, angana na 42.054Frw ajyanye na RSSB n'angana na 91.992 Frw ya RAMA. Ayakuwemo yose angana na 559.152Frw, yishyurwa 1.017.867Frw (net). - Ku ndishyi zingana na 4.731.060Frw zijyanye n'amezi atandatu (6) zo kwirukanwa mu buryo budakurikije amategeko, havanywemo angana na 1.323.318Frw y'umusoro ku mishahara, angana na 126.162Frw ya RSSB n'angana na 275.976Frw ya RAMA. Ayakuweho yose angana na 1.725.456Frw, ahabwa angana na 3.005.604 Frw. Murebwayire kandi yishyuwe amafaranga 300.000Frw ajyanye n'igihembo cya avoka.

[18] Uhagarariye Rwanda Revenue Authority avuga ko ku bijyanye n'amategeko yashingiweho na RRA, yashingiye ku ngingo ya 13 y'itegeko N°16/2005 ryo ku wa 18/08/2005 rigena imisoro itaziguye ku musaruro, mu gace ka 1^{o} iteganya ko « Umusaruro ukomoka ku kazi ugizwe n'amafaranga yose yishyurwa umukozi hamwe n'agaciro k'ibintu bihabwa umukozi bijyanye n'akazi ke, ayo mafaranga akaba ari aya akurikira: 1° ibihembo, umushahara, amafaranga yishyurwa mu gihe cy'ikiruhuko,

amafaranga yishyurwa mu gihe cy'uburwayi n'agenerwa kwivuza, amafaranga atangwa mu mwanya w'ikiruhuko, amafaranga y'insimburamubyizi, amafaranga, (....) 7° ibindi byishyurwa ku birebana n'akazi kariho n'akakabanjirije n'akazaza». Naho mu guca uwo musoro (TPR) ku ndishyi z'amezi atandatu zijyanye no kwirukanwa bidakurikije amategeko, hashingiwe ku ngingo ya 13 y'itegeko N°16/2005 ryavuzwe ahabanza mu gaka ka 7° iteganya ko uwo musoro ucibwa no ku « ibindi byishyurwa ku birebana n'akazi kariho n'akakabanjirije n'akazaza». Naho ku bijyanye n'amafaranga y'ubwiteganyirize bwa pansiyo hashingiwe ku ngingo ya 7 y'itegeko N°05/2015 ryo kuwa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyo.

[19] Uhagarariye Murebwayire Justine avuga ko amafaranga y'imishahara y'amezi atatu atari yahawe, urukiko rukaba rwarategetse ko ayihabwa, yabariwe ku mushahara utahanwa, bityo ngo nta yandi mafaranga RRA yagombaga gukataho.

UKO URUKIKO RUBIBONA

[20] Urukiko rurasanga ku mafaranga y'imishahara y'amezi atatu Murebwayire Justine yagenewe, umuhagarariye ayasaba, nk'uko bigaragara mu gika cya 17 cy'urubanza RAD00193/2016/TGI/NYGE, rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 09/11/2016, yasabye guhabwa 2/3 by'amafaranga 788.510, ni ukuvuga amafaranga 525.673 ukubye 3, ariyo yabaye amafaranga 1.577.019. Uyu mushahara w'amafaranga 788.510, ababuranyi bemeranywa ko ariwo wari umushahara mbumbe wa Murebwayire Justine.

[21] Urukiko rurasanga aya mafaranga yavuzwe mu gika kibanziriza iki, si amafaranga y'indishyi, ahubwo ni amafaranga y'umushahara, Murebwayire Justine yagombaga kuba yahembwe igihe yari akiri umukozi wa RRA, aho kuyahembwa, akaba yaragiye ahembwa 1/3, hagasigara 2/3. Aya mafaranga ahwanye na 2/3 niyo Urukiko Rwisumbuye rwategetse ko Murebwayire Justine ahabwa, kandi yabariwe ku mushahara mbumbe wa 788.510. Kubera ko aya mafaranga ari amafaranga y'umushahara Murebwayire Justine yagombaga kuba yarahembwe mu gihe yari akiri mu kazi, akiri umukozi wa RRA, birumvikana ko icyemezo gitegeka ko ayahabwa, kitahinduye uko imishahara ibarwa cyangwa ngo kigire ibisanzwe bikurwa mu mishahara kivuga ko byo bitazakurwamo. Bityo kuba RRA ikura umusoro, amafaranga y'ubwiteganyirize bw'abakozi n'amafaranga y'umusanzu w'ubwishingizi bw'indwara muri RAMA, mu mafaranga 1.577.019Frw ahwanye na 2/3 by'imishahara mbumbe y'ukwezi kwa Gicurasi, Kamena na Nyakanga 2015, bifite ishingiro, kandi si uguhindura icyemezo cy'urukiko, kuko icyemezo cy'urukiko nacyo ari uko cyumvikana, kuko na 1/3 Murebwayire Justine yahembwe, ayo mafaranga yagiye akurwamo, akaba agomba no gukurwa muri 2/3 yagiye asigara.

[22] Urukiko rurasanga ku bijyanye n'andi mafaranga atari umushahara Murebwayire Justine yabariwe, arimo indishyi zo kwirukanwa mu buryo bunyuranyije n'amategeko, indishyi z'akababaro n'amafaranga y'igihembo cya Avoka, ikibazo cyo kumenya niba hakurwamo umusoro, amafaranga y'ubwiteganyirize bw'abakozi n'amafaranga y'ubwishingizi bw'indwara, nk'uko uhagarariye Murebwayire Justine abivuga, urubanza RSOC00001/2016/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 20/01/2017, rwatanze umurongo.

[23] Urukiko rurasanga muri uru rubanza rwavuzwe mu gika kibanziriza iki, Ntukamazina Jean Baptiste yari yagenewe amafaranga y'indishyi zo kwirukanwa mu buryo bunyuranyije n'amategeko, zingana n'amafaranga 134.185.600Frw. Muri aya mafaranga, uhagarariye Prime Insurance yavugaga ko hagomba kuvamo umusoro, Ntukamazina Jean Baptiste ntabyemere, avuga ko na RRA yari yatanze

umucyo ivuga ko hagomba kuvamo umusoro. Ariko Urukiko rw'Ikirenga rwavuze ko "mu gihe nta nzira y'ubujurire (voie de recours) yiyambajwe ngo ibe yarahinduye ibyemejwe mu rubanza RSOCAA0001 & 0002/16/CS, Urukiko rurasanga urwo rubanza rugomba kurangizwa uko rwaciwe, …". (igika cya 14 cy'urubanza).

[24] Urukiko rurasanga ingingo ya 47, igika cya nyuma, y'Itegeko Ngenga N°03/2012/OL ryo ku wa 13/06/2012, rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ivuga ko "Imanza n'ibyemezo by'Urukiko rw'Ikirenga bigomba kubahirizwa n'izindi nkiko zose zo mu gihugu." Kubera ko ikibazo cyo gukemura impaka zavutse mu irangizwa ry'urubanza ku ndishyi zatanzwe n'urukiko cyakemuwe n'urukiko rw'Ikirenga mu rubanza rwavuzwe mu gika kibanziriza iki, uwo murongo niwo ugomba kubahirizwa, amafaranga y'indishyi Murebwayire Justine yagenewe mu rubanza arimo kurangirisha, akayahabwa nk'uko yagenwe n'urwo rubanza, nta mafaranga RRA ikuyemo, ibi ariko nk'uko byasobanuwe, bikaba bitareba amafaranga 1.577.019Frw ahwanye na 2/3 by'imishahara mbumbe y'ukwezi kwa Gicurasi, Kamena na Nyakanga 2015, yo agomba gukurwamo ibikurwa mu mushahara w'umukozi.

D. Amafaranga y'ikurikiranarubanza n'igihembo cya avoka.

[25] Uhagarariye Murebwayire Justine asaba ko uwo ahagarariye yahabwa indishyi z'ikurikiranarubanza n'igihembo cya avocat bihwanye n'amafaranga 1.000.000, agasubizwa n'amafaranga 75.000 yatanzeho ingwate y'amagarama.

[26] Uhagarariye Rwanda Revenue Authority avuga ko asanga Murebwayire atari akwiye kwemererwa igihembo cya avoka kuko ariwe wishoye mu manza zidafite ishingiro. Bityo aya mafaranga akaba akwiye kuvanwaho. Ikindi ni uko ari umurengera.

[27] Uhagarariye Rwanda Revenue Authority avuga ko ahubwo hagendewe ku ngingo ya 258 y'Igitabo cya III cy'urwunge rw'amategeko mbonezamubano, RRA irasaba guhabwa n'urega amafaranga angana na 1.000.000Frw ajyanye n'igihembo cya avoka n'ibyatanzwe kuri uru rubanza guhera rutangiye kugeza uyu munsi kuko yayishoye mu manza zidafite ishingiro. RRA ifite abakozi b'aba « specialists » bashinzwe kuburana imanza zayo, kandi bakagira ibyo bagenerwa byihariye kubera ako kazi bakora; ibyo kandi ntabwo ari bishya, kuko n'abavoka baburanira ibigo byigenga bagenerwa imishahara ariko bakaka igihembo cya avoka inkiko zikakibagenera. Kuba kandi RRA yagenerwa igihembo cya avoka byanemejwe n'Urukiko rw'Ikirenga mu rubanza RCOMAA0021/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 03/11/2017. Bityo ibyo RRA isaba ikaba ikwiye kubihabwa kuko bifite ishingiro.

UKO URUKIKO RUBIBONA

[28] Urukiko rurasanga amafaranga 1.000.000Frw y'igihembo cya Avoka uhagarariye Rwanda Revenue Authority asaba, ntayo yahabwa kuko ikirego cya Murebwayire Justine gifite ishingiro, bityo nta kosa yakoze ryatuma acibwa indishyi hashingiwe ku ngingo ya 258 y'Igitabo cya III cy'urwunge rw'amategeko mbonezamubano.

[29] Urukiko rurasanga amafaranga 1.000.000Frw y'igihembo cya Avoka uhagarariye Murebwayire Justine asaba, ntiyayahabwa yose kubera ko ari menshi, akaba agenewe mu bushishozi bw'Urukiko amafaranga 500.000Frw y'igihembo cya Avoka wamuburaniye uru rubanza.

III. ICYEMEZO CY'URUKIKO

[30] Rwemeje ko inzitizi y'iburabubasha n'iyo kutakira ikirego, zatanzwe na Rwanda Revenue Authority nta shingiro zifite.

[31] Rwemeje ko ikirego cya Murebwayire Justine gifite ishingiro.

[32] Rwemeje ko mu mafaranga yagenewe n'urukiko, amafaranga agomba gukurwamo ibyo amategeko agena biva mu mushahara ari amafaranga 1.577.019Frw ahwanye na 2/3 by'imishahara mbumbe y'ukwezi kwa Gicurasi, Kamena na Nyakanga 2015, andi mafaranga Murebwayire Justine yagenewe n'Urukiko Rukuru akaba agomba kuyahabwa yose ntagikuwemo kubera impamvu zasobanuwe.

[33] Rutegetse Rwanda Revenue Authority guha Murebwayire Justine amafaranga 500.000Frw y'igihembo cya Avoka wamuburaniye uru rubanza, ikamusubiza n'amafaranga 75.000Frw yatanzeho ingwate y'amagarama.

[34] Rutegetse ko amafaranga yatanzweho ingwate y'amagarama ahera mu isanduku ya Leta nk'amagarama y'urubanza