RUBERANDINDA v. IKIGO CY'IMISORO N'AMAHÔRO

[Rwanda URUKIKO RW'IKIRENGA – RCOMAA 00030/2017/CS (Kayitesi R, P.J., Gakwaya na Mukandamage, J.) 25 Gicurasi 2018]

Amategeko agenga imisoro – Umusoro – Inshingano z'umusoreshwa n'umusoresha mu kohererezanya ibaruwa ishinganye – Iyo umusoresha cyangwa umusoreshwa akoresheje iposita mu kohererezanya ubutumwa, iyo uwohereza ubutumwa yabugejeje ku iposita, ikabwakira ikabuteraho kashe, aba yujuje inshingano ye, hatitawe ku gihe iposita y'uwohererejwe ubutumwa izabumugerezaho – Itegeko rigena imitunganyirize y'isoresha, ingingo ya 4.

Amategeko agenga umusoro – Umusoro – Kugira ngo hagaragazwe ko umusoresha yohereje ibaruwa ishinganye igihe cy'iminsi 60 kitararenga, hagomba kurebwa itariki igaragazwa na kashe y'iposita yabyakiriye – Itegeko rigena imitunganyirize y'isoresha, ingingo ya 4.

Incamake y'ikibazo: Nyuma yuko Ruberandinda akorewe igenzura nta nteguza n'Ikigo cy'Imisoro n'Amahôro (RRA) maze acibwa Umusoro ku Nyungu hamwe n'Umusoro ku Nyongeragaciro (TVA) ungana na 81.587.393Frw w'imyaka wa 2009 n'uwa 2010, kuwa 29/9/2015 yajuriye kwa Komiseri Mukuru asaba kugabanyirizwa akishyura gusa 11.415.245Frw, ibaruwa igera kuri Komiseri Mukuru kuwa 01/10/2015 nawe amusubiza ku itariki 27/11/2015 amumenyesha ko ubujurire bwe bufite ishingiro kuri bimwe, bityo ko agomba kwishyura umusoro ungana na 62.639.977Frw.

Ruberandinda ntiyanyuzwe nicyo cyemezo maze atanga ikirego mu Rukiko rw'Ubucuruzi rwa Huye avuga ko igisubizo cya Komiseri Mukuru ku bujurire bwe cyamugezeho gitinze kuko cyageze mu gasanduku k' iposta ye ya Muhanga cyararengeje iminsi 60 iteganywa n'amategeko. Uru Rukiko rwemeza ko ikirego cye gifite ishingiro, rwemeza ko agomba kwishyura umusoro ungana na 11.415.245Frw ku myaka ya 2009 na 2010 hamwe n'ibihano bijyanye niyo myaka ibiri, RRA nayo itegekwa kumuha indishyi zo kumushora mu manza hamwe n'igihembo cya avoka.

Umusoresha yajuririye mu Rukiko Rukuru rw'Ubucuruzi avuga ko urukiko rubanza rwemeje ko ubujurire bwa Ruberandinda kwa Komiseri Mukuru bufite ishingiro kandi ataribyo, uru Rukiko rwemeza ko ubujurire bwa RRA bufite ishingiro kuko rushingiye ku ibaruwa urega yandikiye Komiseri Mukuru, n'ibaruwa nawe yamusubije ishinganye, igashyikirizwa iposita ya Kigali igera kuri poste ya Muhanga aho urega abarizwa rwasanze umusoreshwa yarabonye igisubizo cya Komiseri Mukuru iminsi 60 yateganyijwe n'itegeko.

Ruberandinda yajuriye mu Rukiko rw'Ikirenga avuga ko ingingo z'ubujurire batanze zihuriye ku ngingo imwe gusa igamije kumenya aho icyemezo cya Komiseri Mukuru kigomba kunyuzwa kugirango kigere ku musoreshwa kuko Komiseri Mukuru wa RRA yashyize ubutumwa bwe kw'iposita ya Kigali kandi we abarizwa i Muhanga, akaba kandi yarahaye RRA aderesi ya Muhanga, ko rero RRA yagombaga gushyikiriza ubutumwa bwe ku iposita ya Muhanga.

Akomeza avuga ko itariki yagombaga guherwaho habarwa iminsi 60 RRA yagombaga kuba yamugejejeho ubutumwa, ari igaragazwa na kashe y'iposita ya Muhanga igomba kuba iri ku ibaruwa irimo ubutumwa, avuga ko ubujurire bwa Ruberandinda bwakiriwe ku wa 01/10/2015, kandi umunsi wa nyuma wo ku wa 30/11/2015, aribwo igisubizo cyagombaga kuba kigeze ku

iposita ya Muhanga, mu gihe ibaruwa yandikiwe na Komiseri Mukuru iriho kashe igaragaza ko yageze mu iposita ya Muhanga ku wa 02/12/2015, iminsi 60 yararangiye. Bityo akaba asaba n'indishyi hamwe n'inyungu yagombaga kubona mu gihe cy'iminsi 82 yamaze akurikirana urubanza.

Ikigo cy'Imisoro n'Amahoro kivuga ko gisanga iminsi 60 yateganywe n'itegeko yarubahirijwe kuko Komiseri Mukuru yabonye ubujurire bwa Ruberandinda Viateur kuwa 01/10/2015, ishyikiriza igisubizo iposita kuwa 27/11/2015, kandi kuvuga ko aderesi y'iposita umusoreshwa yatanze ari iyi Muhanga, nta shingiro bifite kuko inshingano zo gushyira ubutumwa mu gasanduku k'iposita, bikorwa n'iposita, bidakorwa n'Ikigo cy'Imisoro n'Amahôro. Isoza ivuga ko kuba kashe iri ku ibaruwa ari iy'iposita y'i Muhanga, asanga ari ibisanzwe, bigaragaza ko umusoreshwa yakiriye ubutumwa bwe, ko ariko hari n'icyemezo cyerekana ko ibaruwa yatanzwe ku Iposita y'i Kigali ikayakira.

Incamake y'icyemezo: 1. Iyo umusoresha cyangwa umusoreshwa akoresheje iposita mu kohererezanya ubutumwa, iyo uwohereza ubutumwa yabugejeje ku iposita, ikabwakira ikabuteraho kashe, aba yujuje inshingano ye, hatitawe ku gihe iposita y'uwohererejwe ubutumwa izabumugerezaho. Bityo, icyemezo cya Komiseri Mukuru wa Ikigo cy'Imisoro n'Amahôro ku bujurire bwa Ruberandinda cyarubahirije ibihe by'iminsi 60 iteganywa n'itegeko.

2. Iposita yakira ubutumwa ni iposita iyari yo yose umusoresha cyangwa umusoreshwa yakoresheje atanga ubutumwa bwe, apfa gusa kuba yashyizeho amazina y'uwo abwohereje hamwe na numero y'agasanduka k'iposita yatanze mu Kigo cy'imisoro n'amahôro.

3. Kugira ngo hagaragazwe ko umusoresha yohereje ibaruwa ishinganye igihe cy'iminsi 60 kitararenga, hagomba kurebwa itariki igaragazwa na kashe y'iposita yabyakiriye.

4. Imyumvire iri mu rubanza RCOMAA00070/2016/CS – RCOMAA0076/16/CS rwaciwe n'Urukiko w'Ikirenga ku wa 03/11/2017, haburana Ikigo cy'Imisoro n'amahôro na Murebwayire Agnès, ivuga ko ingingo ya 6, 2° y'Itegeko N°25/2005 ryo kuwa 04/12/2005 rigena imitunganyirize y'isoresha , yumvikanisha ko iposita ivugwa muri iyo ngingo atari iy'i Kigali cyangwa iposita iyo ariyo yose mu gihugu, ko ahubwo ari iposita y'aho umusoreshwa abarizwa, iyi myumvire ikaba itariyo, kuko iyo ngingo ivuga ahubwo ko iposita igomba gushyikirizwa ubutumwa ari iposita Nkuru i Kigali ku Kigo cy'Imisoro n'amahôro cyangwa ku musoreshwa utuye i Kigali, naho ku musoreshwa ubarizwa mu Ntara, iposita igomba gushyikirizwa ubutumwa ageneye Ikigo cy'Imisoro n'amahoôro , ni iposita y'aho atuye yatangiye adresi mu Ikigo cy'Imisoro n'amahôro , ikaba ariyo izabwohereza Ikigo cy'Imisoro n'amahôro.

Ubujurire nta shingiro bufite.
Imikirize y'urubanza rwaciwe n'Urukiko Rukuru rw'Ubucuruzi igumyeho.
Amagarama y'urubanza urega yatanze ahwanye n'ibyakozwe mu rubanza.

Amategeko yashingiweho:

Itegeko N° 25/2005 ryo ku wa 04/12/2005 rigena imitunganyirize y'isoresha, ingingo ya 4, iya 5, iya 6 al 2°, niya 32.

Nta manza zifashijwe:

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ruberandinda Viateur yakorewe igenzura nta nteguza n'Ikigo cy'Imisoro n'amahôro (RRA), acibwa umusoro ku nyungu n'umusoro ku nyongeragaciro (TVA) bingana na 81.587.393Frw y'umwaka wa 2009 na 2010.

[2] Ruberandinda Viateur yajuririye Komiseri Mukuru ku wa 29/09/2015, avuga ko atemera imisoro yombi yaciwe, asaba kurenganurwa akishyura uwo yemera ungana na 11.415.245Frw, ibaruwa imugeraho ku wa 01/10/2015, Komiseri amusubiza ku wa 27/11/2015, ko ubujurire bwe bufite ishingiro kuri bimwe, ko akwiye guhanagurwaho 18.947.416Frw, amugaragariza ko azishyura umusoro wa 62.639.977Frw.

[3] Ruberandinda Viateur ntiyanyuzwe, atanga ikirego mu Rukiko rw'Ubucuruzi rwa Huye avuga ko inyandiko ya Komiseri Mukuru isubiza ubujurire bwe, yamugezeho yararengeje iminsi 60 iteganywa n'Itegeko, kuko yageze mu gasanduku ke k'iposita y'i Muhanga ku wa 02/12/2015, asaba ko umusoro yemera ariwo yakwishyura.

[4] Urukiko rwaciye urubanza RCOM 0472/15/TC/HYE ku wa 13/05/2016, rwemeza ko ikirego cye gifite ishingiro, ruvuga ko kuba yaramenyeshejwe igisubizo cya Komiseri Mukuru igihe giteganywa n'amategeko cyararenze, ibyo yajuririye bifatwa ko bifite ishingiro, maze rwemeza ko agomba kwishyura 11.415.245Frw y'umusoro ku nyungu n'umusoro ku nyongeragaciro ku mwaka wa 2009 na 2010, n'ibihano bijyanye n'iyo myaka ibiri (2). Rwategetse kandi RRA kumuha 500.000Frw y'indishyi zo kumushora mu manza harimo n'igihembo cya Avoka.

[5] RRA yajuririye Urukiko Rukuru rw'Ubucuruzi, ivuga ko Umucamanza yemeje ko ubujurire bwa Ruberandinda Viateur kwa Komiseri Mukuru bufite ishingiro, kuko Komiseri Mukuru wa RRA yasubije ku bujurire bwe iminsi 60 iteganywa n'Itegeko yararenze, kandi ataribyo, Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza RCOMA00320/2016/CHC/HCC, ku wa 10/03/2017, rwemeza ko Ruberandinda Viateur yabonye igisubizo cya Komiseri Mukuru ku bujurire bwe mu gihe cyateganyijwe n'amategeko[1], bityo ko ubujurire bwa RRA bufite ishingiro.

[6] Urukiko rufata icyemezo, rwashingiye ko ibaruwa urega yandikiye Komiseri Mukuru ku wa 29/9/2015, yageze kuri RRA ku wa 01/10/2015, nawe asubiza ku bujurire bwe, akoresheje ibaruwa ishinganye, ishyikirizwa iposita y'i Kigali ku wa 27/11/2015, igera mu gasanduku ke k'iposita N° 169 i Muhanga ku wa 02/12/2015 aho urega abarizwa, ko rero iminsi 60 iteganywa n'ingingo ya 32 y'Itegeko N°25/2005 ryo ku wa 04/12/2005 rigena imitunganyirize y'isoresha

[1] Rwashingiye ku ngingo ya 32 y'Itegeko N°25/2005 ryo ku wa 04/12/2005 rigena imitunganyirize y'isoresha nkuko ryahinduwe rikuzuzwa kugeza ubu, iteganya ko "Komiseri mukuru afata icyemezo ku bujurire mu gihe cy'iminsi 30 akakigeza ku musoreshwa. Komiseri Mukuru cyangwa undi mukozi wese w'ubuyobozi bw'imisoro ubifitiye ububasha washyizweho na Komiseri Mukuru, ashobora kongera indi minsi 30 kuri iki gihe inshuro imwe gusa akabimenyesha umusoreshwa".

nkuko ryahinduwe rikuzuzwa kugeza ubu, yubahirijwe, ruvuga kandi ko n'ibiteganywa n'ingingo ya 5, igika cya 2[2] y'iryo y'Itegeko, nabyo byubahirijwe.

[7] Ruberandinda Viateur yajuririye Urukiko rw'Ikirenga ku wa 08/04/2017, avuga ko Urukiko Rukuru rw'Ubucuruzi rwemeje ko icyemezo cya Komiseri Mukuru wa RRA ku bujurire bwe, cyatanzwe mu bihe byemewe n'amategeko kandi atari byo, kuko cyagejejwe mu gasanduku ke k'iposita i Muhanga, iminsi 60 iteganywa n'Itegeko yararenze, ibyo bikaba byaratumye acibwa imisoro ingana na 62.639.977Frw, atagombaga kwishyura, asaba indishyi zinyuranye zikubiyemo igihembo cya Avoka, n'inyungu yagombaga kubona mu gihe cy'iminsi 82 yatakaje akurikirana imanza.

[8] Urubanza rwaburanishijwe mu ruhame ku wa 03/04/2018, Ruberandinda Viateur ahagarariwe na Me Nsengiyumva Abel, Rwanda Revenue Authority ihagarariwe na Me Twahirwa Jean -Baptiste.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA.

1. Kumenya niba igisubizo cy'ibaruwa ishinganye cya RRA ku bujurire bwa Ruberandinda Viateur cyaratangiwe ku gihe.

[9] Me Nsengiyumva Abel, uburanira Ruberandinda Viateur, avuga ko ingingo z'ubujurire batanze zihuriye ku ngingo imwe gusa igamije kumenya aho icyemezo cya Komiseri Mukuru kigomba kunyuzwa kugirango kigere ku musoreshwa, kuko Urukiko Rukuru rw'Ubucuruzi rwagaragaje ko iyo ubutumwa bugeze ku iposita bifatwa nk'aho umusoreshwa aba yahawe ubutumwa bwe. Asobanura ko ubutumwa bwa Komiseri Mukuru wa Rwanda Revenue Authority bwashyizwe ku iposita ya Kigali kandi Ruberandinda Viateur atuye i Muhanga, nyamara adresi y'aho atuye ari: B.P 169 Muhanga, ari nayo yahaye Rwanda Revenue Authority, ndetse n`inyandiko ya Komiseri Mukuru ikaba iriho iyo adresi nk'uko bigaragara muri dosiye, ko rero RRA yagombaga gushyikiriza ubutumwa bw'uwo aburanira ku iposita ya Muhanga, ko igitekerezo cye gishingiye ku ngingo ya 4 y'Itegeko rya "procédure fiscale" ryo muri 2005, ivuga ko aharebwa ari aho umuntu atuye, ko ndetse igika cya nyuma cy'ingingo ya 5 y'iryo Tegeko ivuga "bureau de poste ''y'aho umuntu atuye, ko atari Iposita nini nka "Institution'' kuko ntaho ivugwa mu itegeko.

[10] Uburanira Ruberandinda Viateur avuga ko itariki yagombaga guherwaho habarwa iminsi 60 RRA yagombaga kuba yamugejejeho ubutumwa, ari igaragazwa na "cachet" y'iposita ya Muhanga igomba kuba iri ku ibaruwa irimo ubutumwa, avuga ko ubujurire bwa Ruberandinda Viateur bwakiriwe ku wa 01/10/2015, kandi umunsi wa nyuma wo ku wa 30/11/2015, aribwo igisubizo cyagombaga kuba kigeze ku iposita ya Muhanga, mu gihe ibaruwa Ruberandinda Viateur yandikiwe na Komiseri Mukuru iriho kashe, igaragaza ko yageze mu iposita ya Muhanga ku wa 02/12/2015, iminsi 60 yararangiye.

[11] Me Nsengiyumva Abel avuga ko ubujurire bwa Ruberandinda Viateur babushingira kandi ku rubanza RCOMAA00070/2016/CS – RCOMAA0076/16/CS rwaciwe n'Urukiko

[2] "Iyo umusoreshwa cyangwa ubuyobozi bw'imisoro byakoresheje iposita mu kohererezanya ubutumwa, bifatwa nkaho byujuje inshingano yabyo umunsi ubwo butumwa bwashyikirijwe iposita".

rw’Ikirenga, hagati ya RRA na Murebwayire Agnès, ko ibikubiye muri iyi “jurisprudence’’ bihura neza n’uru rubanza ruburanwa, kuko uru Rukiko rwasanze Murebwayire Agnès yarandikiye Komiseri Mukuru ku wa 01/09/2015, ajuririra umusoro yaciwe, Komiseri Mukuru yamumenyesheje icyemezo yafashe ku bujurire bwe ku wa 05/11/2015 nyuma y`iminsi 67, binyuranyije n’ibitegenywa n`ingingo ya 32 y’Itegeko ryavuzwe, rwemeza ko igisubizo cya komiseri cyashyikirijwe umusoresha ibihe byararenze, rushingiye ku ngingo ya 6, igika cya 2 hamwe n`ingingo ya 4 y’Itegeko ryavuzwe, maze rwemeza ko ubujurire bwa Murebwayire bufite ishingiro, akaba agomba guhanagurwaho umusoro, asaba Urukiko ko rwaruheraho rufata icyemezo.

[12] Me Twahirwa Jean- Baptiste uhagarariye Rwanda Revenue Authority, avuga ko iby’uko ubutumwa bugenewe umusoreshwa bugomba kunyuzwa ku iposita y’aho atuye, ari uburyo bumwe bukoreshwa, kuko hari igihe umusoreshwa we ubwe ashobora kwiyizira ku biro bya Rwanda Revenue Authority agahabwa igisubizo, ko rero icyo gihe itamubwira gusubira i Muhanga ngo abe ariho afata igisubizo.

[13] Avuga ko we adatandukanya Iposita Nkuru n’amashami yayo kuko amashami atagira ubuzima gatozi, ko iyo icyemezo cyashyikirijwe ku cyicaro cy’Iposita cyangwa Iposita Nkuru, iba yakibonye, akaba yumva igisubizo cyaratanzwe aho cyagombaga gutangwa, ko rero asaba Urukiko gusuzuma ibiteganywa n’ingingo ya 4 n’iya 5 z’Itegeko ryavuzwe haruguru.

[14] Ku bijyanye n’iminsi 60 urega avuga ko itubahirijwe, avuga ko asanga yarubahirijwe kuko Rwanda Revenue Authority yabonye ubujurire bwa Ruberandinda Viateur kuwa 01/10/2015, ishyikiriza igisubizo iposita kuwa 27/11/2015. Akomeza asobanura ko ibyo Ruberandinda Viateur avuga by’uko yatanze “address” y’iposita i Muhanga, asanga nta shingiro bifite kuko yayitanga i Kigali, cyangwa i Muhanga, asanga inshingano zo gushyira ubutumwa mu gasanduku k’iposita, bikorwa n’iposita, bidakorwa na Rwanda Revenue Authority. Avuga kandi ko kuba kashe iri ku ibaruwa ari iy’iposita y’i Muhanga, asanga ari ibisanzwe, bigaragaza ko umusoreshwa yakiriye ubutumwa bwe, ko ariko hari n’icyemezo cyerekana ko ibaruwa yatanzwe ku Iposita y’i Kigali ikayakira.

UKO URUKIKO RUBIBONA.

[15] Ibijyanye no kumenya niba RRA yaratanze igisubizo ku bujurire bwa Ruberandinda Viateur mu minsi 60 iteganywa n’Itegeko, bigomba kureberwa mu buryo ingingo zinyuranye zirebana n’ihererekanya ry’ubutumwa hagati y’umusoresha n’umusoreshwa, ryubahirijwe.

[16] Ku birebana n’aho ubutumwa bugomba koherezwa, ingingo ya 4[3] y’Itegeko N°25/2005 ryo ku wa 04/12/2005 rigena imitunganyirize y’isoresha nkuko ryahinduwe kandi rikuzuzwa kugeza ubu, ryakurikizwaga igihe RRA yatangaga ubutumwa, yumvikanisha ko mu kohereza umusoreshwa cyangwa undi muntu ubutumwa bwe, Ubuyobozi bwa RRA bufite inshingano zo gukoresha adresi buba bwarahawe nuwo musoreshwa cyangwa undi muntu, ku buryo niyo adresi ihindutse, RRA igomba kubimenyeshwa, ikabyubahiriza. Naho ku byerekeye uburyo

[3] Ingingo ya 4 y’Itegeko N°25/2005 ryo ku wa 04/12/2005 rigena imitunganyirize y’isoresha nkuko ryahinduwe rikuzuzwa kugeza ubu, iteganya ko Ubuyobozi bw'imisoro bwohereza amabaruwa, amatangazo cyangwa ubundi butumwa umusoreshwa cyangwa umuntu ku cyicaro cye cyangwa aho atuye hazwi.

bw'ihererekanya ry'inyandiko hagati ya RRA n'umusoreshwa, ingingo ya 5[4] y'iryo Tegeko igaragaza uburyo bugeze kuri bune (4) butandukanye, umusoresha yakwifashisha kugirango ageze ubutumwa bwe ku musoreshwa cyangwa undi muntu, harimo n`ibaruwa ishinganye, ndetse ikaba ariyo yifashishijwe muri uru rubanza, Komiseri Mukuru asubiza ku bujurire bwa Ruberandinda Viateur.

[17] Ku bijyanye n'iposita (poste d'expédition) itangwaho ubutumwa bw'ibaruwa ishinganye (lettre recommandée), ingingo ya 6, igika cya kabiri, y'iryo Tegeko N°25/2005 ryo ku wa 04/12/2005 ryavuzwe haruguru, igateganya ko "Iyo umusoreshwa cyangwa Ubuyobozi bw'imisoro byakoresheje iposita mu kohererezanya ubutumwa, bifatwa nk'aho byujuje inshingano yabyo umunsi ubwo butumwa bwashyikirijweho iposita".

[18] Urukiko rusanga iyi ngingo yumvikanisha ko iyo umusoresha (Ubuyobozi bw'imisoro) cyangwa umusoreshwa bakoresheje iposita mu kohererezanya ubutumwa, iyo uwohereza ubutumwa yabugejeje ku iposita, ikabwakira ikabuteraho "cachet'', aba yujuje inshingano ye, hatitawe ku gihe iposita y'ubwohererejwe izabumugerezaho, byumvikana neza ko iposita yakiriye ubutumwa ivugwa muri iyi ngingo ni iposita iyari yo yose umusoresha cyangwa umusoreshwa yakoresheje atanga ubutumwa bwe, apfa gusa kuba yarashyizeho aderesi y'iposita y'uwo abwohererereje (poste de destination), ni ukuvuga n'amazina ye, numero y'agasanduka k'iposita y'aho atuye nk'uko bivugwa mu ngingo ya 4 y'iri Tegeko yasobanuwe haruguru.

[19] Ku birebana n'uru rubanza, kugira ngo hagaragazwe ko RRA yohereje Ruberandinda Viateur ibaruwa ishinganye isubiza ku bujurire bwe igihe cy'iminsi 60 kitararenga, Urukiko rusanga hagomba kurebwa itariki igaragazwa na ''cachet'' y'iposita Nkuru ya Kigali RRA yahaye ibaruwa ishinganye yamugeneye, kugira ngo izayohereze kuri adresi ya Ruberandinda Viateur yahaye RRA, ni ukuvuga amazina ye, n'iposita y'aho abarizwa, nkuko bivugwa mu ngingo ya 4 y'Itegeko ryavuzwe haruguru.

[20] Dosiye y'urubanza igaragaza ko inyandiko yo ku wa 02/09/2015 ya Rwanda Revenue Authority[5] isoza igenzura ry'umusoro ku nyungu Ruberandinda Viateur yagombaga kwishyura mbere y'uko ajuririra Komiseri Mukuru, yerekana ko atuye i Muhanga kuko yandikiwe ku mwirondo ukurikira: "Ruberandinda Viateur, TIN: 100845349, B.P. 169 Muhanga, Tél: 0788324023".

[21] Dosiye y'urubanza igaragaza kandi ko ibaruwa ishinganye N° 517/15/CG/LLBS/RPA yo ku wa 27/112015 Komiseri Mukuru wa Rwanda Revenue Authority yandikiye Ruberandinda Viateur amugenera igisubizo ku bujurire bwe, igaragaza ko yayohereje kuri iyo aderesi yitangiye muri RRA: "Ruberandinda Viateur, C/O AFICCO Ltd, TIN: 100845349, B.P. 169 Muhanga. Tél: 0788324023".

[4] Ingingo ya 5 y'Itegeko N°25/2005 ryo ku wa 04/12/2005 nk'uko ryavuguruwe kandi ryujujwe kugeza ubu, iteganya ko "Ubutumwa bwose butanzwe hagati ya Minisitiri, Ubuyobozi bw'Imisoro, Komiseri Mukuru cyangwa Komisiyo y'Ubujurire n'umusoreshwa cyangwa undi muntu butangwa hifashishijwe bumwe muri ubu buryo bukurikira: 1° ibaruwa ishinganye; […]".

[5] Yanditswe n'abakozi bayo, Ndatabaye Maurice (Investigation Officer), Mwirere Delphine Acting Group Leader, Niyigaba Faustin, Acting Pricipal Investigation Officer, na Mugabe Robert, Deputy Commisiionner for Revenue Investigation and Enforcement Department.

[22] Dosiye y'urubanza igaragaza na none ko ibaruwa y'ubujurire bwa Ruberandinda Viateur yagejejwe kuri Komiseri Mukuru wa Rwanda Revenue Authority ku wa 01/10/2015 (urupapuro rwa 14 rwa dosiye yo mu Rukiko rw'Ubucuruzi rwa Huye), nawe amugenera igisubizo hakoreshejwe uburyo bw'ibaruwa ishinganye yacishijwe ku iposita i Kigali ku wa 27/11/2015 (annexe 5 y'ibimenyetso bya RRA), kandi ikaba yarashyikirijwe Ruberandinda Viateur ku gasanduku ke k'iposita N°169 i Muhanga ku wa 02/12/2015.

[23] Urukiko rusanga rero, kuba Ubuyobozi bwa RRA bwarabonye ubujurire bwa Ruberandinda Viateur ku wa 01/10/2015, mu gutanga igisubizo, bugashyikiriza Iposita Nkuru i Kigali, ibaruwa ishinganye isubiza ku bujurire bwe, ku wa 27/11/2015, mu gihe cy'iminsi 57, itageze ku minsi 60, hakoreshejwe adresi yatanzwe na Ruberandinda Viateur ubwe, hashingiwe ku biteganywa n`ingingo ya 6, igika cya mbere y'Itegeko N°25/2005 ryo ku wa 04/12/2005 ryavuzwe haruguru iteganya ko :" Iyo itegeko rigenga imisoro rigena igihe igikorwa runaka, iyemeza cyangwa ubutumwa bigomba gukorwamo cyangwa gutangwa, itariki nyayo igaragaza iyubahirizwa ry'ibisabwa, igaragazwa na kimwe muri ibi bikurikira: 1° kashe y'iposita igomba kuba yashyizwe ku ibaruwa bitarenze umunsi umwe w'akazi uhereye igihe iposita yakiriyeho ubutumwa buvugwa mu gace ka mbere k'igika cya mbere cy'ingingo ya 5 y'iri tegeko''.

[24] Ku birebana n'urubanza RCOMAA00070/2016/CS – RCOMAA0076/16/CS rwaciwe n'Urukiko w'Ikirenga ku wa 03/11/2017, haburana RRA na Murebwayire Agnès, Ruberandinda Viateur ashingiraho asaba ko uru Rukiko rwarugenderaho mu gufata icyemezo ku bujurire bwe, Urukiko rusanga rutashingirwaho, kuko ruvuga ko ingingo ya 6, 2° y'Itegeko N°25/2005 ryo ku wa 04/12/2005 ryavuzwe haruguru, yumvikanisha ko iposita ivugwa muri iyo ngingo atari iy'i Kigali cyangwa iposita iyo ariyo yose mu gihugu, ko ahubwo ari iposita y'aho umusoreshwa abarizwa, nyamara iyi myumvire ikaba itariyo, kuko, nk'uko byasobanuwe haruguru, iyo ngingo ivuga ahubwo ko iposita igomba gushyikirizwa ubutumwa ari iposita Nkuru i Kigali kuri RRA cyangwa ku musoreshwa utuye i Kigali, naho ku musoreshwa ubarizwa mu Ntara, iposita igomba gushyikirizwa ubutumwa ageneye RRA, ni iposita y'aho atuye yatangiye adresi muri RRA, ikaba ariyo izabwoherereza RRA.

[25] Hashingiwe ku ngingo z'amategeko zagaragajwe n'ibisobanuro byatanzwe haruguru, Urukiko rusanga icyemezo cya Komiseri Mukuru wa Rwanda Revenue Authority ku bujurire bwa Ruberandinda Viateur cyarubahirije ibihe by'iminsi 60 iteganywa n'ingingo ya 32 y'Itegeko ryavuzwe haruguru, ubujurire bwe nta shingiro bufite, Urukiko Rukuru rukaba narwo ari uko rwabibonye, imikirize y`urubanza rwaciye ikaba igomba kugumaho.

2. Kumenya niba indishyi zisabwa na RRA mu bujurire bwuririye ku bundi zifite ishingiro

[26] Me Twahirwa Jean-Baptiste avuga ko Rwanda Revenue Authority ahagarariye, isaba 5.000.000Frw y'igihembo cya Avoka kuri buri rwego baburaniyemo kubera ko yakuruwe mu rubanza, bituma yifashisha Avoka, hakiyongeraho 500.000Frw y'ikurikiranarubanza.

[27] Me Nsengiyumva Abel avuga ko Rwanda Revenue Authority iramutse itsinze urubanza, Urukiko rwazayigena mu bushishozi bwarwo indishyi n'igihembo cya Avoka biri mu rugero, kuko izo isaba ari ikirenga.

UKO URUKIKO RUBIBONA

[28] Urukiko rusanga Ruberandinda Viateur agomba guha Rwanda Revenue Authority 500.000Frw y'igihembo cya Avoka kuri uru rwego, na 500.000Frw y'ikurikiranarubanza, agenwe mu bushishozi bwarwo kuko atsinzwe muri uru rubanza, kandi RRA yaburanye ihagarariwe na Avoka, inakurikirana iby'ubujurire mu Rukiko rw'Ikirenga.

III. ICYEMEZO CY'URUKIKO

[29] Rwemeje ko ubujurire bwa Ruberandinda Viateur nta shingiro bufite;

[30] Rwemeje ko imikirize y'urubanza RCOMA00320/2016/CHC/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 10/03/2017 igumyeho;

[31] Rutegetse Ruberandinda Viateur guha Rwanda Revenue Authority 500.000Frw y'igihembo cya Avoka na 500.000Frw y'ikurikiranarubanza yiyongera ku yatanzwe n'Urukiko Rukuru rw'Ubucuruzi;

[32] Rutegetse ko amagarama y'urubanza angana na 100.000Frw Ruberandinda Viateur yatanze, ahwanye n'ibyakozwe mu rubanza.