IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO
(3) REVISED

DATE : 21 July 2026 SIGNATURE

CASE NO: 149944/26

HEARD ON: 15 July 2026
REASONS FOR JUDGMENT: 21 July 2026

In the matter between:

RELOAD AQUARIUS SHIPPING INETRNATIONAL (PTY) LTD	Applicant
and	
THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE	Respondent

---

REASONS IN TERMS OF RULE 49(1)(c) OF THE UNIFORM RULES OF COURT

<u>Strijdom, J</u>

1. In this matter I handed down the following order on 15 July 2026:

"The application is struck from the roll with costs for lack of urgency. Costs will include the costs of senior and junior counsel to be taxed on Scale C in respect of senior counsel and Scale B in respect of junior counsel.

INTRODUCTION

2. The applicant sought an order for inter alia, the following:

    2.1 Dispensing with the normal forms and manner of service and directing that the matter be dealt with as an urgent application.

    2.2 Condoning non-compliance with section 96 of the Customs and Excise Act (91 of 1964, ("Customs Act") and permitting the institution and hearing of this application prior to the expiry of the period prescribed.

    2.3 Pending the hearing of Part B

        2.3.1 Interim relief interdicting the Respondent from detaining further consignments destined for the applicant's warehouse JHB OS36442 ("warehouse") due to insufficiency of security.

        2.3.2 Directing the Respondent to allow warehouse declarations, custom clearances and related warehouse operations;

        2.3.3 Directing the Respondent to release consignments detained at Beitbridge for removal to the Applicant's warehouse for export be under customs supervision, alternatively to have such goods remain under detention in the warehouse pending final resolution of the matter.

3. After the commencement of the application and after debating the matter with counsel, I ruled that the question of urgency be dealt with first.

URGENCY

4. Rule 6(12)(b) requires an applicant to set forth explicitly "the circumstances which is averred render the matter urgent and the reasons why the applicant claims that applicant could not be afforded substantial redress at a hearing in due course.[1]

5. In ***East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd.***, Notshe AJ referred to *this requirement and said:*

> *"[6] The import thereof is that the procedure set out in Rule 6(12) is not there for the taking. An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly the applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of absence of substantial redress in an application in due course.*
>
> *[7] It is important to note that the Rules require absence of substantial redress. This is not equivalent to the irreparable harm that is required before the granting of interim relief. It is something less. He may still obtain redress in an application in due course but it may not be substantial. Whether an applicant will not be able to obtain substantial redress in an application in due course will be determined by the facts of each case. An applicant must make out his case in that regard."*

6. <u>Summary of Parties' Contentions</u>

6.1 The dispute arises from decisions taken by the Respondent during June 2026 after concluding that the applicant's previously approved warehouse surety had become inadequate. Those decisions included the detention of 13 consignments under sections (87 and 88) of the Customs Act. Although certain consignments were permitted to proceed, the Respondent detained others on the basis that the applicant's previously approved warehouse surety had become inadequate. The detention of consignments has materially disrupted the applicant's bonded warehouse operations, created ongoing commercial uncertainty and exposed future consignments to the real risk of similar

---

[1] *(11/33767) [2011] ZAGP JHC 196 (23 September 2011)*

detention. The applicant accordingly sought interim relief pending review of those decisions.

7. The respondent contended that the urgency was self-created. The applicant contended that it acted immediately after the first detention notices were issued. It engaged with the Respondent, attended meetings, responded to requests for information, increased its security and repeatedly asked the Respondent to identify the amount of security it considered necessary and how that amount had been calculated. It was further argued by the applicant that the urgency is ongoing. Every day that the detention decisions remain in force the applicant continues to suffer the consequences of decisions which were taken under a wrong statutory power.

8. The applicant contended that it cannot obtain substantial redress in due course. Even if the review ultimately succeeds, that will not restore the disruption of the applicant's business, the commercial relationships, or the financial losses suffered while the goods remained detained.

9. The applicant is the licensee of a customs bonded warehouse, entitling it, subject to terms and conditions to provide storage of goods. The applicant is dealing with storage of high valued goods including tobacco. At all material times the applicant must have security sufficient to cover duty and VAT of dutiable goods stored. The Commissioner requires strict compliance and self-assessment as part of the license requirements. The amount of security should cover any duties and VAT of dutiable goods stored in the warehouse.[2]

10. The applicant is bound to comply with inter alia section 18, 19, 20, 59A, 60, 61, 101, 102 and 107(2) of the Customs Act, rules and policies thereto.[3]

11. Section 107(1)(1) of the Customs Act provides that:

> *"Subject to the provisions of this Act, the Commissioner shall not, except on such conditions including conditions relating to security, as may be determined by him or her, allow goods to pass from his/her control until the provisions of this Act or any law relating to the information, exportation, transhipment or transit carriage through the Republic of goods, have been complied with in respect of such goods."*

---

[2] AA 011-37 para 86-88
[3] AA 011-38 para 93

12. It is common cause that the security amount which is currently lodged and applicable with reference to the applicant's warehouse is the amount of R3 884 140.00.

13. Information obtained from the respondent's Warehouse Inventory Management System ("WIMS") indicated that goods received and stored in the warehouse of the applicant with warehouse number JHB OS 36442 have a value which is far in excess of the security, to wit R3 884 140.00. The customs value of goods received and stored in the warehouse for the period 14 June 2025 to 14 June 2026 is for the amount of R8 411 823 152.00. For such value the applicable customs duty is the amount of R1 261 282 380.45. The amount relating to VAT is the amount of R1 576 602 975.56. This reveals that in reality the security required in order to cover both the duties as well as the VAT would be an amount of R2 837 885 356.01, with a security shortfall of R2 834 001 216.01.

14. From 16 June 2026 and shortly thereafter the Commissioner issued detention notices in respect of goods which were declared at entry to be destined for the applicant's warehouse.

15. The applicant was advised by the respondent to increase the bond amount to an amount which would be sufficient to cover the potential customs and tax exposure arising from the goods stored under customs control.

16. The following request for information was sent to the applicant by the Respondent:

"<u>Request for Information:</u>

In order to finalise this investigation, you are requested to submit the following documents and information:

1. Any addendum, endorsement, amendment or other documentation submitted to increase the security amount applicable to warehouse number JHB OS 36442;

2. SARS approval letter reflecting the approved bond/security amount applicable to warehouse number JHB OS 36442;

3. A detailed written explanation as to why goods were accepted into and stored in the warehouse when the warehouse bond/security was insufficient to cover the duties and taxes attributable to the goods;

4. Copies of all correspondence exchanged with SARS regarding the increase of warehouse security.

5. Current warehouse inventory records reflecting stock held in bond as at 17 June 2026;

6. Any other information or documentation which may assist SARS in finalising this investigation.[4]

7. Notwithstanding the request in the detention letter that the applicant must provide, inter alia, the warehouse records reflecting the stock held in bond, the applicant has failed and/or neglected to do so.[5]

8. It was submitted by the respondent that it is not the task of the Commissioner to simply determine an amount for increased security, but such amount can only be accurately determined once the licensee provides to the Commissioner copies of the applicable bond register. Although the Commissioner has access to the information reflected on the SARS Warehouse Inventory Management System ("WIMS"), the information therein contained is secondary in the sense that it is not the primary facts or information and it is only information declared to the Commissioner and not the actual evidence itself.

---

[4] AA 011-11 para 22
[5] AA 011-12 para 23

9. The respondent contended that the applicant must as a start, complete such addendum and disclose therein fully the value of the goods in its warehouse, at the same time the applicant must furnish to the Commissioner copies of the warehouse bond register which would enable the Commissioner to determine whether the amount applied for by the applicant is correct. The applicant has failed or neglected to make such an application for the increase of the value of the security, or to provide the relevant bond register and associated documents to the Commissioner.

10. In my view the applicant has an instant remedy of complying with its obligation as a licensee of a warehouse in terms of the Customs Act namely to increase its security bond. The respondents' actions of requiring compliance with the Customs Act, which include increase of security, are triggered by strict observance of section 107(2) of the Customs Act. There is an available remedy or duty in respect of an insufficient security bond for the warehouse to the applicant. In terms of section 60(1)(c) of the Customs Act in the form of an application for alteration or amendment of security.[6]

11. I conclude that the applicant created its own urgency by failing to provide to the Commissioner the information and documents requested and its failure to submit the application to have the security value increased.

Strijdom JJ
Judge of the High Court, South Africa
Gauteng Division, Pretoria

---

[6] See also Hotz v University of Cape Town 2017 (2) SA 485 SCA para 36.

Appearances:

For the Applicant:	Adv C Puckrin, SC Adv L Haskins
Instructed by:	Klagsbrun Edelstein Bosman Du Plessis Inc
For the Respondent:	Adv MP Van der Merwe SC Adv W Mothibe
Instructed by:	VDT Attorneys