IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 15624 of 2022
and WMP Nos. 14850 to 14852 of 2022

1. M/s.Arun Fabricators
Bhattad Towers
No.18, West Cott Road,
Royapettah,Chennai-600 014
Rep by its Partner Shri A.M. Sundar.

Petitioner(s)

Vs

1. The Additional Director General
Directorate of Revenue Intelligence
Chennai Zonal Unit, 27,
G.N.Chetty Road, T.Nagar,
Chennai- 600 017.

2.The Senior Intelligence Officer
Directorate of Revenue Intelligence,
Chennai Zonal Unit, 27,
G.N.Chetty Road, T.Nagar,
Chennai- 600 017.

3.The Senior Intelligence Officer
Directorate of Revenue Intelligence,
Nhava Sheva-I, Mumbai Zonal Unit
208, 209, 215, 2nd Floor, D Wing,
Navi Mumbai, SEZ Commercial
Complex, Sector 11,
Dronagiri Taluka Uran, District Raigad,
Maharashtra- 400 707.

4.The Additional Commissioner of Customs
Group 5B, O/o.Commissioner of Customs,
(NS- Jawaharlal Nehru Custom House,
Nhava Sheva, Mumbai Zone- II,
District Raigad, Maharashtra.- 400 707.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the 2nd and 3rd respondents in and connected with Mahazar / Seizure Memo dated 25.3.2022 and 26.4.2022 in file F.No.DRI/CZU/dated 25.3.2022 and DRI/MZU/NS- 1/INT 51/2021/43 respectively, and quash the same and cause release of the vehicle unconditionally.

For Petitioner(s): Mr.B.Satish Sundar for
Mr.N.Viswanathan

For Respondent(s): Mr.Rajendran Raghavan
Senior Panel Counsel

ORDER

This writ petition was filed challenging the Mahazar/Seizure Memo dated 25.03.2022 and 26.04.2022, respectively and for a direction to release the vehicle unconditionally to the petitioner.

2.The specific case of the petitioner is that the petitioner is a partnership Firm which has purchased the vehicle from a car dealer at Chennai. The petitioner on being satisfied with the documents that were shown to the petitioner, proceeded to pay a total sum of Rs.42 Lakhs towards purchase of the car. The petitioner was in possession of the vehicle and was using the same from July 2019.

3.The officers belonging to the 1st and 2nd respondents conducted a search in the office of the petitioner and under the impugned Mahazar, the vehicle was seized by the respondents by recording the fact that the said vehicle was imported as a diplomatic vehicle and there was a wrong claim made with respect to the rate of duty. Accordingly, the vehicle was also confiscated. The same has been put to challenge in the present writ petition.

4.As a subsequent development, the 4th respondent through proceedings dated 19.09.2024, passed an order in the following terms:

> A. I order to Confiscate the seized goods "Toyota Vellfire" having Chassis Number as ANH208331188 having declared Assessable Value of Rs. 19,07,486/- (Rupees Nineteen lakhs Seven thousand four hundred Eighty Six Only) imported vide Bill of Entry No. 66 dated 29.03.2016 under Section 111(j) and 111(0) of the Customs Act, 1962. However, I give the option of redemption of the same on payment of fine of Rs. 19,00,000/- (Rupees Nineteen Lakh only) in lieu of confiscation in terms of section 125 of Customs Act, 1962.
>
> B. I reject the assessment of imported goods pertaining to Bill of Entry No. 66 dated 29.03.2016 and order for re-assessment of the same on merit duty denying the benefit of Customs Notification No. 03/1957 dated 08.01.1957;
>
> C. I confirm the demand of total short levied duty amounting to Rs. 40,09,650/- (Rupees Forty lakhs Nine thousand six hundred fifty Only), arising out of above said re-assessment of B/E No. 66 dated 29.03.2016 in

Table-3 on Mr. Han Jae Song, Counsellor, Embassy of Democratic People's of Korea, New Delhi, along with applicable interest thereon as per the provisions prescribed under-Exemption Certificate Sr. No. ECI/OFF/2016 dated 23.03.2016 read with the Customs Act, 1962 and Foreign Privileged Person (Regulation of Customs Privileged Persons (Regulation of Customs Privileges) Rules, 1957 read with Notification No. 03/1957-Cus dated 08.01.1957;

D. I impose a penalty equal to the duty short paid of Rs. 40,09,650/- (Rupees Forty lakhs Nine thousand six hundred fifty Only) plus applicable interest thereon on Mr. Han Jae Song, Counsellor, Embassy of Democratic People's of Korea, New Delhi under Section 114A of the Customs Act, 1962.

E. I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakh Only) upon Mr. Han Jae Song, Counsellor, Embassy of Democratic People's of Korea, New Delhi under the provisions of Section 114AA of the Customs Act, 1962 for disposing the said vehicle in violation of the statutory conditions as discussed above;

F. I refrain from imposing penalty under Section 112(a) of the Customs Act, 1962 on Mr. Han Jae Song, Counsellor, Embassy of Democratic People's of Korea, New Delhi, as penalty has already been imposed under Section 114A of the Customs Act, 1962.

G. I impose a penalty of Rs. 4,00,000/- (Rupees Four Lakh only) upon Mr. Rehman Iqbal Shaikh under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above;

H. I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakh only) upon Mr. Rehman Iqbal Shaikh under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above;

I. I impose a penalty of Rs. 4,00,000/- (Rupees Four Lakh only) upon Mr. Liyakat Bachu Khan under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above;

J. I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) upon Mr. Liyakat Bachu Khan under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above,

K. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh only) upon Mr. Rajeev Sood under the provisions of Section 112(b) of the Customs Act, 1962 forthe reasons discussed above;

L. I impose a penalty of Rs. 3,00,000/- (Rupees Three Lakh only) upon Mr. Rajeev Sood under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above;

M. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh only) upon Mr. Mohammed Wasim Abdul Gani Siddique under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

N. I impose a penalty of Rs 3,00,000/- (Rupees Three Lakh only) upon Mr. Mohammed Wasim Abdul Gani Siddique under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above;

O. I impose a penalty of Rs. 3,00,000/- (Rupees Three Lakh only) upon Mr. Nipun Miglani under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above;

P. I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) upon Mr. Nipun Miglani under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above;

Q. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) Upon Mr. Aubrey Elias D'Souza under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

R. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) Upon Mr. Aubrey Elias D'Souza under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above.

S. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mohammad Shahid Katerwala under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

T. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mohammad Shahid Katerwala under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

U. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Afzal Majid Memon under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

V. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Afzal Majid Memon under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above.

W. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Sundar Arumugam under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

X. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Sundar Arumugam under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above.

Y. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. A M Sundar under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above;

Z. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. A M Sundar under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above.

AA. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Sarvanan Arumugam under the provisions of Section 112(b) of the Customs Act, 1962 for the reasons discussed above.

BB.I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Mr. Sarvanan Arumugam under the provisions of Section 114AA of the Customs Act, 1962 for the reasons discussed above

31. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

5.When the writ petition came up for hearing on 12.09.2025, the above order was produced before the Court and the learned counsel for the petitioner submitted that the fine amount of Rs.19 Lakhs and the penalty of Rs.1 Lakh will be paid by the petitioner without prejudice to his right in the appeal filed against the order passed by the 4th respondent before the Commissioner (Appeals).

6.This Court directed the learned Senior Panel Counsel to take instructions in this regard and listed the matter for hearing today.

7.When the matter was taken up for hearing today, the learned Senior Panel Counsel appearing on behalf of respondents vehemently opposed the release of the car on the ground that a huge scam had taken place in this case where a syndicate was involved in smuggling large number of luxury cars by organising imports in the name of diplomats posted in India at Nil rate of customs duty by availing the benefit of the customs exemption Notification No.3/1957 dated 08.01.1957. After the import of the vehicles, the members of the syndicate had also fraudulently forged invoice/bills of entry pertaining to the imported cars. Thereafter, the syndicate members registered the cars in the

Regional Transport Officers across India in the name of non privileged persons and identified prospective buyers for selling the imported cars to those in India. In view of the same, the learned Senior Panel Counsel submitted that this case has very serious ramification and therefore, the learned counsel opposes the release of the car in favour of the petitioner.

8.The order passed by the 4th respondent dated 19.09.2024 has already been challenged in appeal by the petitioner before the Commissioner (Appeals). This Court is not going into the merits of the case and for the present, this Court is only concerned about the release of the vehicle which otherwise will be exposed to rain and shine and will ultimately, will depreciate in value. Therefore, as an interim arrangement, this Court is inclined to direct for the release of the vehicle subject to the condition that the petitioner pays Rs.19 Lakhs which was imposed as a fine by the 4th respondent and also an additional sum of Rs.1 Lakh which was imposed as a penalty. If these amounts are paid, the interim custody of the car can be handed over to the petitioner. This order is passed without prejudice to the rights of the petitioner who has already filed an appeal against the order passed by the 4th respondent. This order is also passed subject to the final result in the appeal that is pending before the Commissioner (Appeals). There shall be a further direction to the petitioner not to sell, alienate, encumber or deal with the vehicle in any manner, pending the final orders to be passed in the appeal. This Court has released the car only as an interim custody and release of the car should not be construed as if the petitioner has been exonerated from the alleged violation committed. It is also made clear that the Commissioner (Appeals) shall deal with the appeal on its own merits and in accordance with law and order passed in the present writ petition will not have any bearing.

9.In the light of the subsequent development, the impugned Mahazar and the Seizure Memo pales into insignificance and therefore, there is no need to go into the legality or otherwise at this stage. The subsequent development is taken into consideration and the final orders is passed in this writ petition.

10.This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petitions are closed.

16-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
ssr

To

1. The Additional Director General
Directorate of Revenue Intelligence
Chennai Zonal Unit, 27,
G.N.Chetty Road, T.Nagar,
Chennai- 600 017.

2.The Senior Intelligence Officer
Directorate of Revenue Intelligence,
Chennai Zonal Unit, 27,
G.N.Chetty Road, T.Nagar,
Chennai- 600 017.

3.The Senior Intelligence Officer
Directorate of Revenue Intelligence,
Nhava Sheva-I, Mumbai Zonal Unit
208, 209, 215, 2nd Floor, D Wing,
Navi Mumbai, SEZ Commercial
Complex, Sector 11,
Dronagiri Taluka Uran, District Raigad,
Maharashtra- 400 707.

4.The Additional Commissioner of Customs
Group 5B, O/o.Commissioner of Customs,
(NS- Jawaharlal Nehru Custom House,
Nhava Sheva, Mumbai Zone- II,
District Raigad, Maharashtra.- 400 707.

N.ANAND VENKATESH J.

ssr

WP No. 15624 of 2022

16-09-2025