

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for mandate in the nature of Writs of certiorari, prohibition and mandamus in terms of Article 140 of the Constitution of the Republic of Sri Lanka.

M.L Hydar Ali carrying on a partnership under the name, style and firm of Roomy Trading Company, No: 286B, Katugastota Road, Kandy.

**Petitioner**

**Vs.**

**C.A.Application No: 239/2012**

- 1 K.A Chulananda Perera  
Director General of Customs.
- 2 D.A.I Daranagama,  
Director of Customs,  
Central Investigation Unit (CIB Unit).
- 3 Saman De Silva,  
Deputy Director of Customs,  
Central Investigation Unit (CIB Unit).
- 4 Mailwaganam Paskaran,  
Deputy Director of Customs,  
Inquiring Officer.
- 5 N.D.K Seneviratne Banda,  
Superintendent of Customs,  
Prosecuting Officer.

- 6 Wathsala nanayakkara  
Superintendent of Customs,  
Central Investigation Unit (CIB Unit)  
Producing Officer,  
Central Investigation Unit (CIB Unit).
- 7 R.L.D.S Ranasinghe  
Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 8 H.P.S Nugawela  
Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 9 D.K Sanjaya Ravindra  
Deputy Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 10 G.W.M Prasad  
Assistant Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 11 N.D Hettiarachchi  
Assistant Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 12 S.H.L Ranasinghe  
Assistant Superintendent of Customs,  
Central Investigation Unit (CIB Unit).
- 13 H.M.K Fernando  
Assistant Superintendent of Customs,  
Central Investigation Unit (CIB Unit).

**All of whom are from:**

Sri Lanka Customs Department,  
Customs Headquarters, No; 11,  
Charmers Query, Main Street,  
Colombo 11.

- 14 Nimalka Dias  
Import and Export Controller,  
Import and Export Control Department,  
1<sup>st</sup> Floor, Hemas Building, Colombo 01.
- 15 Hon. Attorney General  
Attorney General's Department,  
Colombo 12

**Respondents**

- BEFORE** : Deepali Wijesundera J.  
L.U Jayasuriya J.
- COUNSEL** : K. Deekiriweva for the Petitioner  
Arjuna Obeysekera D.S.G for the Respondents
- ARGUED ON** : 5<sup>th</sup> September 2016
- DECIDED ON** : 23<sup>rd</sup> March 2017

**L.U Jayasuriya J.**

The petitioner invoked the Writ jurisdiction of this court to quash the decisions marked and produced X4 and X5.

The Petitioner is engaged in the importing of Motor Vehicles. He states that he sold vehicles which had been imported under a valid permit duly issued by the controller of imports to various temples "Viharasthana karya Sadhaka Samithiya" (herein after VKSS) which societies had been duly registered under the Societies Ordinance.

He admits in Para 3 of his Petition that, at the time of the issuance of the said license, the controller of Imports and Exports had laid down, inter alia, the following conditions.

- (i) The vehicle should be registered under the name of the licensee
- (ii) The vehicle should not be sold, transferred or otherwise disposed for (05) years from the date of registration in Sri Lanka.

The Petitioner has admitted at the inquiry held by the 4<sup>th</sup> Respondent that he sold 42 vehicles imported under the permits issued to the VKSS.

The above mentioned admission made by the Petitioner is a clear violation of the conditions stipulated by the Controller of Imports and Exports.

S.50 A(1)(b) of the Customs Ordinance provides that where any goods imported into Sri Lanka have been allowed into Sri Lanka under any other law subject to any condition to be fulfilled after their importation and where such conditions are not complied with then such goods shall be forfeited.

Therefore in the teeth of the above provision, the Customs have the jurisdiction to hold the above mentioned inquiry and the steps taken by the Customs Department to impose a fine on the Petitioner, is nor illegal. Further, the forfeiture of 42 vehicles too is within the powers vested under the provisions of the Customs Ordinance.

For the foregoing reasons, I hold that the decisions under attack are not amenable to Writ Jurisdiction of this Court and proceed to dismiss the Application with costs fixed at Rs. 50,000/-

Application Dismissed.

**JUDGE OF THE COURT OF APPEAL**

**Deepali Wijesundera J. :**

I Agree.

**JUDGE OF THE COURT OF APPEAL**