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

In the matter of an application for mandates in the nature of Writs of Certiorari, Prohibition and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application No: CA/WRIT/0292/26

Gayuki Holdings (Pvt) Ltd
No. 75,
Negombo Road
Ja-ela

Petitioner

Vs.

1. Seevali Arukgoda,
   Director General of Customs,
   Sri Lanka Customs,
   No. 40, Main Street,
   Colombo 11.

1A. Wimal S.K. Liyanagama,
    Director General of Customs,
    Sri Lanka Customs,
    No. 40, Main Street,
    Colombo 11.

2. N.T.N. Dewapriya,
   The Commissioner General,
   Department of Motor Traffic,
   No. 341, Elvitigala Mawatha,
   Colombo 05.

Respondents

Before : R. Gurusinghe, J.
&
A. Premashanker, J.

Counsel : A.R.P. Bandara with K.A. Kaushalya Sandeepani and Anjaana Alawatta
Instructed by Purnima Gnanasekara
for the Petitioner

Mihiri de Alwis, SSC,
for the Respondents

Supported on : 13-07-2026

Decided on : 25-08-2026

ORDER

R. Gurusinghe, J.

The petitioner is engaged in the business of importing and selling motor vehicles, including used and reconditioned motor vehicles.

The petitioner states that, pursuant to the regulations published in an Extraordinary Gazette No. 2421/44 dated 31-01-2025, imported motor vehicles are required to be registered within 90 days from the date of submission of the Customs Goods Declaration (hereinafter referred to as 'CusDec'). The said regulations further empower the 2nd respondent to impose a late registration fee at the rate of 3.0% in respect of vehicles registered after the expiry of the aforesaid period.

Petitioner states that it imported twelve used motor vehicles described in paragraph 5 of the petition. It is further stated that all applicable customs duties in respect of the said vehicles were duly paid through twelve Cusdecs, following which the vehicles were cleared.

The petitioner further states that on 24-02-2026 several officers claiming to be attached to the Sri Lanka Customs entered the petitioner's premises. According to the petitioner, the officers subjected the employees of the company to undue pressure and intimidation and compelled them to sign documents described as search warrants. It is alleged that failure to do so would result in the sealing of the premises and the prevention of the registration of vehicles imported by the petitioner.

Petitioner further states that Ms Saman Kumari, a Director of the company, was likewise compelled, under considerable pressure, to sign several documents against her will. Petitioner further states that customs officers seized a laptop computer belonging to the petitioner's supplier, who is a resident in Japan, together with mobile telephones utilised by the office staff in ordinary business operations.

Petitioner further alleges that the said officers retained custody of the laptop computer and proceeded to examine its contents, while the employees and/or Directors of the company were kept outside the office premises and denied the opportunity to observe or participate in the said inspection process.

Petitioner states that twelve vehicles referred to in paragraph 5 of the petition were imported pursuant to Letters of Credit opened in favour of the supplier in Japan prior to shipment of the said vehicles, in compliance with regulations 3 (2) and 16 of Extraordinary Gazette No. 1739/3(P3) dated 02-01-2012, issued under the Import and Export Control Act, which governs the applicable terms and conditions relating to payments terms for imports. The petitioner states that all relevant documents, including requisite pre-shipment Certificates and Export Certificates prescribed by Extraordinary Gazette Nos. 1786/10 dated 29-11-2012 and 1804/17 dated 03-04-2013, were duly submitted to the Sri Lanka Customs.

The Customs value of imported general goods is ordinarily required to be determined in accordance with the provisions of Schedule "E" of the Customs Ordinance, read with Section 51. It is further contended that the valuation of motor vehicles is specifically governed by Extraordinary Gazette No. 1971/10, dated 14-06-2016, issued under Section 101(1)(h) of the Customs Ordinance. The petitioner states that all applicable import duties in respect of the said motor vehicles were duly paid on the basis of the valuation prescribed by the aforesaid Extraordinary Gazette.

The petitioner states that, on or about 8th of March 2026, the petitioner received a letter dated 04-03-2026, signed by the 1st respondent and addressed to the 2nd respondent, requesting the letter to refrain from registering the twelve vehicles on the basis that an investigation has been commenced by the Compliance and Facilitation Directorate of the Sri Lanka Customs. By letter dated 09.03.2026, marked P10, the petitioner requested the respondent to withdraw the said decision.

The petitioner further states that two of the said vehicles have already been sold to the petitioner's customers and are presently awaiting registration with the Department of Motor Vehicles. The petitioner states that, upon submission of the requisite documents for registration, the petitioner was informed that the said vehicles had been "blacklisted"

The petitioner further states that, in respect of one of the aforesaid two vehicles, the only option suggested by the Customs Authorities to register one of these two vehicles with the Department of Motor Traffic was for the petitioner to furnish a bank guarantee in the sum of Rs. 18,035,994/- in favour of Sri Lanka Customs. The petitioner was compelled to submit such a bank guarantee since the purchaser insisted upon the immediate registration of the vehicle.

The petitioner instituted the present application on 04-05-2026. When the matter was supported on 20-05-2026, the 1st respondent gave an undertaking to this Court to conclude the customs inquiry conducted under Section 8(1) of the Customs Ordinance within a period of six weeks from 20-05-2026, which has already lapsed without the inquiry being concluded.

Petitioner states that despite of its repeated requests, Sri Lanka Customs has failed even to commence the aforesaid Customs inquiry. Petitioner states that Customs insisted that the petitioner produce sales invoices relating to vehicle imports made by the petitioner after the lifting of the temporary suspension of the importation of motor vehicles. The petitioner contends that the undertaking given by the 1st respondent before this Court has not been honoured and that, to date, the inquiry has not even been commenced.

The petitioner further states that, as a consequence of the continued seizure and detention of the said vehicles, it continues to suffer substantial financial losses, estimated at approximately Rs. 70,000/- per day.

In view of the above circumstances, the petitioner pleaded the above grievances and supported an application for interim review as prayed for in prayer (e) of the petition on 13-07-2026. Both parties were heard in respect of the said application.

The petitioner states that Sri Lanka Customs has not made any specific allegations or preferred any charge against the petitioner. However, it seems that the allegation is that the petitioner had undervalued the used motor vehicles it imported. The said vehicles have been released upon payment of all applicable duties to the Customs at the Magampura Port.

It is further stated that the vehicles were imported pursuant to Letters of Credit opened prior to shipment, the particulars of which were duly declared in the CusDecs furnished to Customs. Customs have also inspected the pre-shipment export documentation. Thereafter, the vehicles were released to the petitioner, apparently pursuant to Section 47 of the Customs Ordinance.

The applicable law for the determination of the customs value of motor vehicles is governed by the Extraordinary Gazette no. 1971/10 dated 14-06-2016 (P6), issued by the Minister of Finance under Section 101 of the Customs Ordinance. The said regulation states as follows:

(1)

(A) Customs Value of a brand-new motor vehicle:

The Customs value of a brand-new motor vehicle shall be the transacted value which should be proved with invoice issued by the manufacturer or certified by the manufacturer of such vehicle;

(B) Customs Value of a motor vehicle, not coming under the category (A) above:

Customs value of a motor vehicle, not coming under the category (A) above shall be the value, that should not be below 85% of the transacted value *(excluding applicable of local taxes)* of a similar or identical brand-new vehicle at the country of export of such vehicle.

The petitioner states that the Sri Lanka Customs have very recently reiterated its position that "the applicable valuation methodology is based on Gazette Extraordinary No. 171/10 dated 14-06-2015 read with the Ministry of Finance clarification dated 09-06-2016."

The determination of the value of a brand-new motor vehicle is generally not a matter of difficulty, as the price published by the manufacturer's website is taken as the Free-on-Board (FOB) value. There is no issue as to the methodology applicable for determining the Customs value of motor vehicles. Both the petitioner and the respondent accept that such valuation is to be carried out in accordance with the regulations published under Section 101 of the Customs Ordinance in the Gazette Extraordinary No. 1971/10, referred to above.

Accordingly, neither the petitioner nor the respondents are entitled to disregard, depart from, or substitute the methodology prescribed by Gazette Notification marked P6. Sri Lanka Customs cannot impose an additional requirement or enlarge the scope of the regulatory scheme which is not provided by law or regulations.

In view of the facts and circumstances mentioned above, this Court is satisfied that the petitioner has made out a *prima facie* case warranting the intervention of this Court.

In the case of Duwearatchi and Another v. Vincent Perera and Others [1984] 2 Sri LR 94, the Court stated the following regarding stay orders.

> The main factor to be considered by a court for the issue of or non-issue of a stay order (in this instance the vacation of a stay order) has been set out by His Lordship Samarakoon, C.J., in the case of Billimoria v. Minister of Lands, Land Development and Mahaweli Development and Two Others (1). This decision dealt with the issue of a stay order in an application for a Writ of Certiorari. Samarakoon, C.J. stated the principle as follows "In considering the question we must bear in mind that a stay order is an incidental order made in the exercise of inherent or implied powers of court. Without such power the court's final orders in most cases would if the petitioner is successful be rendered nugatory, and the aggrieved party will be left holding an empty decree worthless for all purposes - Vide Bertram, C. J., in Weerasooriya v. Sidambaram Chetty (2)". His Lordship the Chief Justice further observed at page 15 "the interests of justice therefore required that a stay order be made as an interim measure. It would not be correct to judge such stay orders in the same strict manner as final orders. Interim orders by their very nature must depend a great deal on a judge's opinion as to the necessity for interim action"
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> A consideration of the authorities shows that two other principles or matters have been considered in the issue of interim stay orders. "The balance of convenience" of the parties to the dispute has been considered. The balance of convenience has been defined in C. M. Row's Law of Injunction, 5th Ed ; (1980) at page 201 as follows: "balance of convenience' means - the comparative mischief or inconvenience to the parties..................... If the inconvenience leans to the side of the plaintiff then alone interlocutory injunction should be granted".

The petitioner states that it is incurring a loss of approximately Rs. 70,000/- for each day during which the vehicles remain unregistered. Further, the failure to register within the prescribed period attracts a late registration penalty at the rate of 3.0% of CIF value per month. On the other hand, no prejudice would be caused to Customs authorities by the grant of the interim relief sought, since, in the event that any default of payment of customs duties is subsequently established, the relevant amount may be recovered in accordance with law. The undertaking given by the Customs, the 1st respondent, before this Court to conclude the customs inquiry within six weeks from 20-05-2026 is already violated. The violation of the undertaking given to the Court of Appeal by the 1st respondent itself is a material circumstance warranting the grant of interim relief sought by the petitioner.

In the above circumstances, this Court is satisfied that the petitioner is entitled to interim relief as prayed for in paragraph (e) of the prayer to the petition. Accordingly, the operation of the letter dated 04-03-2026, addressed to the Commissioner General of the Department of Motor Traffic by the 1st respondent, is stayed until the final determination of this application.

Judge of the Court of Appeal

A. Premashanker J.

I agree.

Judge of the Court of Appeal.