

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

In the matter of an application for mandates in
the matter of *Writ of Mandamus and Certiorari*
under and in terms of Article 140 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

**C.A. (Writ) Application
No: 1175/2025**

Henuka Fresh Fruits Pvt Limited
No. 194, Ganewela Road,
Mabima,
Heiyanthuduwa

Petitioner

Vs.

1. Seevali Arukgoda
Director General of Sri Lanka
Customs
2. A.S.N. Pathinisekere
Long Room Supervisor
Deputy Director of Customs
(Declaration Directorate)

All of;
Sri Lanka Customs
No. 40, Main Street,
Colombo 11.

3. Dr. Harshana Suriyapperuma
Secretary to the Treasury
Ministry of Finance, Planning and
Economic Development,
The Treasury Secretariat,
(3rd Floor), P.O. Box 277,
Colombo 1.

4. K.A. Vimalenthirarajah
Secretary
Ministry of Trade, Commerce and food
Security
No. 492, 2nd Floor, L.H.P. Building
R.A. Mel Mawatha
Colombo 03.

5. Ms Ameena Shafi Mohin
Director General of Commerce
Ministry of Trade, Commerce and food
Security
No. 492, 2nd Floor, L.H.P. Building
R.A. Mel Mawatha
Colombo 03.

6. Ms Aruni Ranaraja
Secretary
Ministry of Foreign Affairs, Foreign
Employment and Tourism
Ministry of Foreign Affairs,
Republic Building
Sir Baron Jayathilaka Mawatha
Colombo 01.

Respondents

Before : R. Gurusinghe, J.
&
Dr. S. Premachandra, J.

Counsel : A. Rathnayake
for the Petitioner.

Vikum de Abrew ASG
for the Respondent

Supported on: 20-03-2026

Decided on: 05-06-2026

ORDER

R. Gurusinghe, J.

The petitioner filed this application seeking, inter alia, to quash the letter marked P3, issued by the customs dated 02-04-2025, requiring the petitioner-company to pay a sum of Rs. 38,178,659/- as the short-levied amount of State Levies.

Contents of P3 are as follows:

“It has been noticed that M/s Henuka Fresh Fruits Pvt Ltd had imported 29 consignments of Pakistan origin hybrid Mandarin known as Kinnow declaring under wrong HS code (0805.21.20) during the period of 03.04.2023 to 24.02.2025 evading Rs. 38,178,669/- of state levies.

Therefore, you are hereby instructed to pay the above short levied amount on or before 16.04.2025.

In this regard, your attention is drawn to Section 18 (2) and (3) of the Customs Ordinance (Chapter 235).”

The petitioner states that, over the years, Kinnow has been imported under HS code 0805.21.10, as supported by official documentation, including the special certificate of origin issued by the Pakistan Government Authority, which declares and affirms the state and nature of Kinnow. The petitioner further states that in the year 2020, the Sri Lankan Treasury imposed a Special Commodity Levy (SCL) under the Special Commodity Levy Act. No. 48 of 2007 for two HS codes, namely, 0805.22.10 and 0805.29.10 pertaining to citrus fruits.

Petitioner states that the High Commission of Pakistan in Colombo issued an official communication dated 20-02-2025 addressed to the Secretary, Ministry of Trade and Commerce and Food Security, expressing its concern relating to importation and clearance of ‘Kinnow’. The petitioner further states that the said correspondent affirmed that under the PSFTA, *“Mandarin and similar citrus hybrids classified under HS Code 08052110 are eligible for 100% concession.”*

The petitioner states the decision of the 1st respondent in P3 is illegal, ultra vires, arbitrary, capricious and obnoxious to the principles of reasonableness, fairness, rationality, legitimate expectations, proportionality,

and natural justice and as having the potential to force grave and severe injustice and prejudice to the rights of the petitioner.

The respondents took up several preliminary objections. The respondents further state *inter alia* that;

- a) A variety of hybrid mandarin named 'Kinnow' had been declared by the Petitioner under Harmonized System (HS) code 0805.21.10;
- b) The Petitioner is solely responsible for accurately declaring its consignments, and it is entirely the Petitioner's duty to ensure that all imports are classified under the correct HS codes;
- c) Hybrid varieties of mandarins fall under HS Code 0805.29.10, and the Director General of Agriculture, on behalf of the Department of Agriculture, has by letter dated 07/03/2025, confirmed that the 'Kinnow' variety is a hybrid mandarin variety.
- d) The Petitioner subsequently submitted Customs Declarations under the said correct HS code;
- e) Thus, the Petitioner has admitted and accepted that the appropriate HS Code for the 'Kinnow' mandarin variety is 0805.29.10.

Respondents further state that;

- a) According to the Explanatory Notes of the World Customs Organization, mandarins, including their hybrids, were classified under the HS Code 0805.20;
- b) In the year 2017, the World Customs Organization introduced revised HS sub-headings 0805.21.10, 0805.22.10 and 0805.29.10. Explanatory Notes were issued in relation to this division, and in accordance with the said division and the Explanatory Notes, Kinnow mandarin, being a hybrid variety of mandarin, falls under HS Code 0805.29.10;
- c) Accordingly, the most appropriate HS Code for fresh 'Kinnow' mandarins is 0805.29.10.

The respondents have produced copies of Section II, Chapter 8 of the Customs National Import Tariff Guide; the pages regarding HS Code 0805 in

the Explanatory Note; and pages 1a to 10a and 56a to 57a of the Gazette No. 2220/42 dated 24-03-021, are marked R5, R6, R7, and R8.

The respondents have also produced the Gazette Notification dated 31-12-2004, issued under Sections 2 and 4 of the Special Commodity Levy Act. No. 48 of 2007 marked R9.

According to R5, mandarins (including tangerine and satsumas), clementines, wilkings and similar citrus hybrids are classified under a broader category. Then, fresh mandarins (including tangerines and satsumas) are classified under HS Code 0805.21.10, and dried fruits are classified under HS Code 0805.21.20. Similar Citrus hybrids are not included under these two categories. Fresh clementines are classified under HS code 0805.21.10, and dried clementines are classified under HS code 0805.21.20. Thereafter, there are two more HS codes for 'Other', namely 0805.29.10 and 0805.29.20, for fresh and dried fruits under the same broad category.

It is to be noted that 'Wilkings and similar citrus hybrids' are not included under HS code 0805.21.10 or under HS Code 0805.21.20. It is not disputed that 'Kinnow' is a mandarin hybrid. Therefore, such a hybrid mandarin should be classified under 'Other' HS codes 0805.29.10 and 0805.29.20.

The petitioners themselves have subsequently submitted a Customs Declaration under the said HS codes. The Cusdec marked R3, dated 10-03-2025, in Cage 33, Commodity HS Code is 0805.29.10. In cage 8 of R3, the consignee is Henuka Fresh Fruits Pvt Ltd, 194 Ganewela Road, Mabima. Heiyanthuduwa, TSO (EREG COMPLT). R4 is also a similar Cusdec, and in R4, the consignee is the petitioner, and the Commodity HS code is 0805.29.10.

According to R3B, R3C, R4B and R4C, the description of goods was fresh mandarin 'Kinnow'. The petitioner has accordingly later conceded that the correct HS code for fresh 'Kinnow' is 0805.29.10. The Director General of Agriculture, Agriculture Department, Peradeniya, certified that "*Kinnow mandarin is identified as a hybrid, resulting from a cross between King mandarin (citrus nobilis) and Willowleaf mandarin (citrus deliciosa).*" Accordingly, the Kinnow is a distinct variety of citrus.

In the above circumstances, the Court holds that the respondents have not acted illegally and, therefore, the petitioner has no *prima facie* case for this Court to look into. Therefore, Court refuses to issue formal notice on the respondents. Application is dismissed.

Judge of the Court of Appeal

Dr. S. Premachandra J.

I agree.

Judge of the Court of Appeal.