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

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

1. TDH International (Private) Limited,
   Randeniyawatta, Mawathagama.

2. Kulatunga Mudiyanselage Kanchana Prasad Bandara Kulatunga,
   Director
   TDH International (Private) Limited,
   02, Samodaya Niwasa, Mawathagama.

PETITIONERS

CA (Writ) 0381/26

Vs.

1. T.T. Upulmali Premathilake,
   Controller General of Import & Export,

2. Dinusha Jayaweera
   Legal Officer

   1st and 2nd Respondents are from:
   Import and Export Control Department,
   1st Floor,
   Hemas Building,
   Sir Murcus Fernando Mawatha,
   Colombo 1.

3. Hatton National Bank PLC,

4. Rozanne de Almeida,
   Vice President,
   Head of International Trade Finance

5. Amila S.D. Hewavitharana
   Manager,
   International Trade Finance,

   3rd and 5th Respondents are from:
   City Office, Level 2, No. 16,
   Janadhipathi Mawatha,
   Colombo 01.

6. Hambantota International Port
   Group (Private) Limited,
   Hambantota Maritime Center,
   Mirijjawila, Hambantota.

7. Hon, Attorney General,
   Attorney General's Department
   Colombo 12.

RESPONDENTS

Before : **Hon. Justice B. Sasi Mahendran. J**
Hon. Justice Adithya Patabendige J

Counsel: K. Deekiriwewa with M.K. Herath, Kanchana Silva and Wijeratne Bandara For the Petitioners.
C. Sri Nammuni, DSG, with R. Aluwihare, SC, for the 1st, 2nd and 7th Respondents

Supported On: 23.06.2026

Order On: 14.07.2026

ORDER

B. Sasi Mahendran, J.

The Petitioner seeks, *inter alia*, a writ of *Certiorari* quashing the decision contained in the document marked "X9A", by which the Hatton National Bank PLC (hereinafter referred to as the 3rd Respondent) refused to hand over the relevant documents to the Petitioners. In addition, the Petitioners seek a writ of *Prohibition* restraining the 1st and 2nd Respondents, namely the Controller General of Imports and Exports and the Legal Officer of the Department of Import and Export Control, from taking any further action pursuant to or consequent upon the said decision.

According to the petition, Petitioners imported three used motor vehicles into Sri Lanka through licensed commercial banking facilities. For this purpose, the Petitioners opened two Documentary Letters of Credit (hereinafter referred to as the "LC") in the 3rd Respondent, Hatton National Bank PLC, Credit No. 019IMLCS25000576 dated 7 February 2025, marked "X4A" and Documentary Credit No. 019IMLCS25001337 dated 28 February 2025, marked "X4B".

The Petitioners rely on Regulation 3(2) of Gazette Extraordinary No. 1739/3 (X3C), contending that matters relating to the payment terms, operation, amendment, and expiry of LC are to be determined between the importer, the foreign supplier, and the licensed commercial bank, without intervention by the Controller General of Imports and Exports. The Petitioners further rely on Operational Instructions No. 5/2012 (X5), which state that commercial banks are not required to refer import documents to the Department of Imports and Exports Control in cases of late shipment, expiry of a LC, or where the invoice predates the opening of the LC.

The Petitioners state that "X4B", issued on 28 February 2025, was amended on several occasions to extend its expiry and shipment dates. Although the vehicle was shipped after the original expiry date, the Petitioners contend that the subsequent amendment regularised the transaction in accordance with accepted banking practice, rendering the LC valid until 21 September 2025.

The Petitioners further state that "X4A", issued on 7 February 2025, also underwent several amendments, including one declared null and void, followed by an amendment extending the expiry date to 4 July 2025. While the vehicles were shipped after the LC had expired, the Petitioners contend that these matters concerned the operation of the LC and, pursuant to Regulation 3(2) and Operational Instructions No. 5/2012, fell within the banking framework and did not require approval from the Department of Imports and Exports Control.

The Petitioners argue that the 3rd Respondent, HNB Bank, unnecessarily referred the LCs to the 1st Respondent for approval, despite there being no legal requirement to do so. They further contend that once the LCs were opened and accepted, the 1st and 2nd Respondents had no authority to intervene with the said documents, except in cases where the LC failed to comply with the requirements stipulated in the Gazette..

Instead, the Petitioners allege that the 1st and 2nd Respondents communicated their decision to HNB Bank by email, directing the Bank not to release the import documents on the basis that the Petitioners had violated Gazette Extraordinary No. 2107/45 and that action should be taken in terms of Regulation 9 of Gazette Extraordinary No. 2421/44 dated 31 January 2025.

After the Respondents refused to issue the required "No Objection Letters," the Petitioners requested reconsideration. The Respondents maintained their refusal, leaving the imported vehicles uncleared at the Port of Hambantota. Being aggrieved by the aforesaid actions, the Petitioners have invoked the writ jurisdiction of this Court by this application.

When the matter was supported on 23rd July 2026, the learned Deputy Solicitor General appearing for the 1st and 2nd Respondents submitted that, at the time the shipment took place, there was no valid LC in existence. In support of this submission, learned Deputy Solicitor General relied on the Gazette marked as "X3B" and brought to the attention of the Court the provisions of Section 6 thereof, which read as follows:

> *"6. Importation of motor vehicles, classifiable under the Chapter 87 of the Harmonized Description and Coding System shall only be made by Letters of Credit (LCs), which shall be established prior to shipment of such motor rehicles.*

The Emissions Standards and Safety Measures / Standards, specified in these regulations shall be included in the Latters of Credit as mandatory requirements to be complied with in importation of such motor vehicles."

According to the said provision, the Petitioners were required to obtain a valid LC prior to the shipment. The provision further stipulates that the Emission Standards and Safety Measures prescribed under the Regulations shall be incorporated as mandatory conditions in the LC.

The question that arises for determination is whether the Petitioners violated the aforesaid conditions. According to document marked "X8", dated 11 February 2026, the Petitioners informed the 1st Respondent that,

1. the LC had been opened on 8 February 2025,
2. the date of loading took place on 23 August 2025.
3. The Petitioners further indicated that the LC incorporated the documents and requirements prescribed as mandatory under the said Gazette.

However, by letter dated 19 May 2026, the 3rd Respondent informed the Petitioners that the 1st Respondent had instructed them not to release the relevant documents to the Petitioners on the basis that the Petitioners had allegedly violated the Regulations published in Gazette Extraordinary No. 2107/45. There is no indication in the said letter as to why the 3rd Respondent, being the issuing bank, referred this matter to the 1st Respondent. It is further noted that the said LCs have not been cancelled.

The purpose of opening the LC was discussed by *Lord Diplock in the case of **United City Merchants Ltd (Investments) v. Royal Bank of Canada** 2 W.L.R Page. 1045,*

"My Lords, for the proposition upon the documentary credit point, both in the broad form for which counsel for the confirming bank have strenuously argued at all stages of this appeal and in the narrower form or "halfway house" that commended itself to the Court of Appeal, there is no direct authority to be found either in English or Privy Council cases or among the numerous decisions of courts in the United States of America to which reference is made in the judgments of the Court of Appeal in the instant case. So the point falls to be decided by reference to first principles as to the legal nature of the contractual obligations assumed by the various parties to a transaction consisting of an international sale of goods to be financed by means of a confirmed irrevocable documentary credit. It is trite law

> *that there are four autonomous though interconnected contractual relationships involved. (1) The underlying contract for the sale of goods, to which the only parties are the buyer and the seller; (2) the contract between the buyer and the issuing bank under which the latter agrees to issue the credit and either itself or through a confirming bank to notify the credit to the seller and to make payments to or to the order of the seller (or to pay, accept or negotiate bills of exchange drawn by the seller) against presentation of stipulated documents; and the buyer agrees to reimburse the issuing bank for payments made under the credit. For such reimbursement the stipulated documents, if they include a document of title such as a bill of lading, constitute a security available to the issuing bank; (3) if payment is to be made through a confirming bank the contract between the issuing bank and the confirming bank authorising and requiring the latter to make such payments and to remit the stipulated documents to the issuing A bank when they are received, the issuing bank in turn agreeing to reimburse the confirming bank for payments made under the credit; (4) the contract between the confirming bank and the seller under which the confirming bank undertakes to pay to the seller (or to accept or negotiate without recourse to drawer bills of exchange drawn by him) up to the amount of the credit against presentation of the stipulated documents"*

This was referred to in the book "*Principles of International Trade Law*", 3rd Edition by Lakahman Marasinghe.

According to the above judgment, there exists a contractual relationship between the 3rd Respondent, namely the issuing bank, and the Petitioner, who is the buyer. By issuing the LC, the issuing bank gives the payment undertaking. This establishes a contractual obligation between the Petitioners and the Respondent.

At this juncture, I am mindful of the case of ***Commercial Bank of Ceylon Ltd v. Salahudeen***, [1999] SLR 3, 187 at page 189, where Jayasinghe J held that,

> *"It must be said that the issuing Bank has its own responsibilities. Article 15 of the. Unified Customs and Practice for Documentary Credits (U.C.P.D.C.) mandates that the Banks must examine all documents with reasonable care to ascertain that they appear on their face to be in accordance with the terms and conditions of the credit. It seems, therefore, that, is a duty cast on the issuing Bank primarily to examine the accuracy of the documents."*

The fact remains that the LC was opened prior to the shipment, and according to its terms, the relevant mandatory documents were clearly indicated. It is true that the said LC had expired before the ship landed; however, the expiry date was duly communicated to the 1st Respondent. The issuing bank, the 3rd Respondent, bears its own responsibilities under the LC, which arose from the Unified Customs and Practice for Documentary Credits (UCB), which was issued by the International Chamber of Commerce.

This constitutes a contractual arrangement between the Petitioners and the Respondent. Furthermore, by Gazette Notification 1739/3 and the document marked as X5, the 1st Respondent has given power to the 3rd Respondent with matters concerning late shipment and the LC expiring. Therefore, there is no necessity for the 3rd Respondent to refer the matter to the 1st Respondent.

According to X9, it is not clear why the 3rd Respondent referred the matter to the 1st Respondent. There is, however, an important issue to be considered. As evidenced in X8, the LC was opened prior to the shipment, and it was further indicated that the said LC had been extended until 21 September 2025.

For the I hold that the petitioners have established a prima facie case that warrants consideration.

Accordingly, I issue notices to the respondents and notice returnable on 28th July 2026.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.
I AGREE.

JUDGE OF THE COURT OF APPEAL