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 in terms of Article 140 of the Constitution of the Republic of Sri Lanka.

1. Ruchika Thamal Vidanagamage
Carrying a partnership business
under the name, style and firm
of "**Tharanga Enterprises**" of
Seeradunna, Mawathagama.

CA WRIT APPLICATION NO.
CA /WRT /560 /2026

And a (Showroom) at No: 247,
Wanduragala, Colombo Road,
Kurunegala.

2. J.M.Chamara Susantha Jayasinghe,
Staff Assistant,
Tharanga Enterprises,
(Showroom) No: 247,
Wanduragala, Colombo Road,
Kurunegala.

PETITIONER

Vs.

1. Wimal S.K. Liyanagama,
   Director General of Customs,

2. A. A. D. C. Santhapriya,
   Director of Customs (DC)
   Compliance and Facilitation
   Directorate.

3. Sudesh Fernando
   Deputy Director of Customs,
   Compliance and Facilitation
   Directorate,

4. A. M. P. B. Herath,
   Assistant Superintendent of Customs,
   (ASC)

   1st to 4th Respondents are from:
   Sri Lanka Customs,
   Customs House,
   Customs Headquarters,
   No:40, Main Street,
   Colombo 11.

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

<u>RESPONDENTS</u>

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

Counsel: K. Deekiriwewa with Dr. M. K. Herath, Dr. Kanchana Silva and Wijerathna Bandara for the Petitioners.
Nayomi Kahawita, SSC for the Respondents.

Written Submissions: On 08.09.2026 **(**by the Petitioner)
08.09.2026 **(**by the Respondent)

Supported On: 25.06.2026

Order On: 15.09.2026

ORDER

B. Sasi Mahendran, J.

The Petitioners seek, *inter alia*, a ***Writ of Certiorari*** quashing the decision to conduct a Customs inquiry under Sections 8(1) and 8(2) of the Customs Ordinance in Customs Case No. PCAD/2026/00023/CCR/00709 in respect of the 44 motor vehicles referred to in **"X3",** and the 16 motor vehicles referred to in **"X6"**. The Petitioners further seek ***Writs of Prohibition*** restraining the Respondents from conducting the said Customs inquiry, or any inquiry in respect of other vehicles imported on or after 01.02.2025, without establishing a Customs violation under Gazette Notification No. 1971/10 dated 14.06.2016.

The Petitioners also seek a ***Writ of Prohibition*** restraining the Respondents from determining the value of used vehicles by applying the purported "whichever is higher" principle based on the invoice value, contrary to the said Gazette Notification, and a ***Writ of Mandamus*** compelling the Respondents to act according to law.

The following facts are relevant to this application

The Petitioners state that, with effect from 1st February 2025, the "Temporary Suspension" previously imposed on the importation of motor vehicles was relaxed. Upon obtaining the relevant Gazetted Regulation, and being satisfied with the relaxation so introduced, the Petitioners, having duly examined the methodology of computation of Customs duty and other applicable levies, recommenced the importation of motor vehicles. The Petitioners state that Customs applies four distinct methods in computing applicable duties and levies.

The Petitioners rely upon the Gazette Notification No. 1971/10 dated 14th June 2016, issued under Section 101 of the Customs Ordinance (hereinafter referred to as the "Ordinance"), marked as "**X2**", which prescribes the method of determining the Customs value of motor vehicles. The regulation stipulates that the Customs value shall be the aggregate of: (1) either (A) the transacted value of a brand-new vehicle proved by manufacturer's invoice, or (B) in the case of a used vehicle, not less than 85% of the transacted value of a similar brand-new vehicle in the country of export; together with transport cost to Sri Lanka, insurance, handling charges, and brokerage and commissions.

The Petitioners contend that despite this clear framework, officers of the Compliance and Facilitation Directorate, 2nd Respondent, commenced a raid of their showroom under Section 128 of the Ordinance, without any evidence of an offence. Petitioners contend that Sections 128 and 128A permit such action only where there is suspicion of a violation, which was absent in this case. The warrant signed by the 2nd Respondent, Director of Customs, is said to have been issued blindly, disregarding the fact that invoice value is not the basis for duty computation.

Following the raid, the 4th Respondent issued a memorandum dated 17.06.2026, which is marked as "**X3**" under Section 128A(2), seizing original import documents relating to 44 vehicles. Upon legal representation, 43 sets were released, but one set was retained. Petitioners allege that the 3rd Respondent verbally proposed a penalty in lieu of prosecution, despite no violation being established, amounting to misuse of power.

The Petitioners further state that the 3rd Respondent attempted to selectively extract 7 vehicles from the schedule marked "**X6**", and proposed a penalty of Rs. 11 million, an action they describe as absurd and arbitrary.

Petitioners emphasise that the Gazette itself defines a used vehicle as one registered and de-registered in the country of export, regardless of mileage, and its Customs value must not fall below 85% of the transacted value of a similar brand-new vehicle. They maintain that the Respondents' actions are contrary to the Gazette and the Ordinance, and amount to abuse of authority.

Being aggrieved by the aforementioned actions of the Respondents, the Petitioner has invoked the writ jurisdiction of this Court

I am mindful, upon perusal of the Petition, that the Petitioner has not indicated that the Customs initiated an inquiry under Section 52 of the said Ordinance, where there must be evidence to establish that the Petitioner has falsely declared the valuation of the said vehicles. At this juncture, it is pertinent to refer to Section 52 of the said Ordinance.

> *52. Where it shall appear to the officers of the customs that the value declared ance in respect of any goods according to section 51 is a false declaration, the goods in respect of which such declaration has been made shall be forfeited together with the package in which they are contained. Where such goods are not recoverable, the person making such false declaration shall forfeit either treble the value of such goods or be liable to a penalty of one hundred thousand rupees, at the election of the Collector of Customs."*

The Petitioner was fully aware of the purpose of the inquiry conducted by Customs. According to the document marked as **"X4"** which was written by Attorney-at-law Deekiriwewa to the 1st Respondent, it has indicated that *"embarked on a journey to discover whether the above named business entity had engaged in under valuation when importing used vehicles from Japan and other countries specially at a stage when they are devoid of power to probe into that issue because Customs duty is calculated not based on the Invoice value Or not based on whichever is higher from the Gazetted 85% value and Invoice value."*

The question is whether the Petitioner has disclosed in the Petition that there is an inquiry regarding undervaluation. It should be noted that Customs has already started to investigate and record the statements of Weeraratne and Jayasinghe and obtained documents from them. From these documents, Customs has found the actual transaction values of the said particular vehicles. The Petitioner has failed to disclose on what basis the inquiry was held to this Court.

Our courts have held that when an application for writ is made, it is the duty of the Petitioner to make a full and truthful disclosure of all the material facts. The following judicial pronouncements substantiate this position.

Pathirana J in ***W. S. Alphonso Appuhamy, Petitioner, and L. Hettiarachchi (Special Commissioner, Chilaw) and Another*, 77 NLR page 131 at page 135, held that;**

> *"The necessity of a full and fair disclosure of all the material facts to be placed before the Court when an application for a writ or injunction is made and the process of the Court is invoked is laid down in the case of The King v. The General Commissioners - for the Purpose of the Income Tax Acts for the District of Kensington-Exparte Princess Edmond de Poignac - (1917)1 Kings Bench Division 486. Although this case deals with a writ of prohibition the principles enunciated are applicable to all cases of writs or injunctions. In this case a Divisional Court without dealing with the merits of the case discharged the rule on the ground that the applicant had suppressed or misrepresented the facts material to her application. The Court of Appeal affirmed the decision of the Divisional Court that there had been a suppression of material facts by the applicant in her affidavit and therefore it was justified in refusing a writ of prohibition without going into the merits of the case. In other words, so rigorous is the necessity for a full and truthful disclosure of all material facts that the Court would not go into the merits of the application but will dismiss it without further examination. Lord Cozens-Hardy M. R., after stating that the authorities in the books are so strong and so numerous quoted the high authority of Lord Langdale and Rolfe B. in the case of Dalglish v. Jarvie-2 Mac. & G. 231, 238, the head note of which states: -*
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> *" It is the duty of a party asking for an injunction to bring under the notice of the Court all facts material to the determination of his right to that injunction; and it is no excuse for him to say that he was not aware of the importance of any facts which he has omitted to bring forward."*

***Sarath Hulangamuwa v. Principal, Visaka Vidyalaya*, [1986] 1 SLR 275 at page 282, Silva Selliah, J**

> *"A petitioner who seeks relief by Writ which is an extraordinary remedy must in fairness to this court, bare every material fact so that the discretion of this court is not*

wrongly invoked or exercised. In the instant case the fact that the petitioner had a residence at Dehiwela is indeed a material fact which has an important bearing on the question of the genuineness of the residence of the petitioner at the annexe and on whether this court should exercise its discretion to quash the order complained of as unjust and discriminatory. On this ground too the application must be dismissed for lack of uberrima fides."

In ***Laub v. Attorney General and Another*, [1995] 2 SLR 88 at page 82,** Lordship Ismail, J, held;

"Learned State Counsel moved that this application be dismissed in limine as the Petitioner has not acted with uberrima fides by suppressing material facts. He relied on the judgment in Alphonso Appuhamy v. Hettiarachchi the headnote which reads as follows: "When an application for a prerogative writ or an injunction is made, it is the duty of the Petitioner to place before the Court," before it issues notice in the first instance, a full and truthful disclosure of all the material facts; the Petitioner must act with uberrima fides"

In ***Sumith Kalugala v. Y.P. de Silva*, [1998] 3 SLR 141 at page 167,** Hector Yapa, J, held that:

"It was submitted on behalf of the Respondents that any person who misleads court, misrepresent facts to court or utter falsehood of court will not be entitled to redress from court. It was contended that this was a well-established proposition of law, since courts expect a party seeking relief to be frank and open with the court and therefore courts will say we will not listen to your application because of what you have done."

The above judgments were considered by His Lordship Samayawardhena J in ***Sri Lanka Standards Institution V. Commissioner General of Labour and others*** **[2020] 3 Sri LR at page 38**

"Writ is a discretionary remedy. The Applicant invoking the extraordinary jurisdiction of this Court by way of writ is duty bound to disclose all material facts when he first makes his application to Court. He shall act with uberrima tides - utmost good faith – making full disclosure of all material facts. Suppression or misrepresentation of

material facts entitles the Court to dismiss the writ application in limine without going into the merits. Once the omitted facts are disclosed by the Respondent, the applicant cannot be heard to say he was unaware of the importance of those facts at the time of filing the application."

In the instant case, the Petitioner has failed to disclose that the Customs Officers commenced an inquiry under Section 52 of the said Ordinance, pursuant to the documents tendered by the Petitioner, which upon examination were found to be questionable in regard to the valuation of the vehicles. The object of such inquiry properly falls within Section 101 of the said Ordinance, particularly in relation to used motor vehicles. The Petitioner himself has admitted that the method of calculating Customs duty is based on valuation in accordance with Gazette Extraordinary No. 1971/10 dated 14th June 2016. Therefore, the issue of valuation is squarely a matter governed by the said Gazette and the provisions of the Ordinance.

When this matter was supported on 25th June 2026, learned Senior State Counsel Nayomi Kahawita brought to the notice of the Court the purpose of the inquiry. According to the written submissions filed by the Respondent, it reveals that during the investigation, Customs found that the actual transaction values related to those 16 shipments had not been declared to Customs.

These findings of alleged false declarations invoke Section 52 of the said Ordinance. In the instant case, customs officers have commenced their investigation pursuant to information of undervaluation. I hold that the Petitioner has failed to establish any illegality on the part of the Respondent.

In the circumstances, I take the view that the Petitioner has failed to make out a *prima facie* or arguable case warranting this Court in issuing formal notices to the Respondents. Accordingly, this Court decides to refuse issuance of notice to the Respondents in this application.

Hence, the application is dismissed.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE

JUDGE OF THE COURT OF APPEAL