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WPC.No.46120/25

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 27TH DAY OF JANUARY 2026 / 7TH MAGHA, 1947

WP(C) NO. 46120 OF 2025

PETITIONER:

**TOLINS TYRES LIMITED,
BUILDING NO 1/47, MC ROAD, MATTOOR P.O, KALADY,
ERNAKULAM, KERALA, REPRESENTED BY ITS MANAGING
DIRECTOR KV TOLIN, PIN - 683 574.**

**BY ADVS.
SRI.VIJAY V. PAUL
SHRI.AJAY V.ANAND
SMT.SHILPA SOMAN
SHRI.ROJIT ZACHARIAH
SHRI.SAFAL P. SALIM
SMT.ANGELA ELSA JOHN**

RESPONDENT:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, MINISTRY OF
FINANCE, DIRECT TAXES DEPARTMENT, NEW DELHI,
PIN - 110 001.**
- 2 THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
(CBIC)
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
NORTH BLOCK, NEW DELHI THROUGH ITS CHAIRMAN,
PIN - 110 011.**
- 3 COMMISSIONER OF CUSTOMS**



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**OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM
HOUSE, WILLINGDON ISLAND, COCHIN, PIN - 682 009.**

**4 ASSISTANT COMMISSIONER OF CUSTOMS (APPRAISING)
OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM
HOUSE, WILLINGDON ISLAND, COCHIN, PIN - 682 009.**

**5 SUPERINTENDENT OF CUSTOMS (APPRAISING)
OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM
HOUSE, WILLINGDON ISLAND, COCHIN, PIN - 682 009.**

BY ADV SHRI.P.R.SREEJITH, SENIOR PANEL COUNSEL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 27.01.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**



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JUDGMENT

The petitioner is a private limited company engaged in export and import. The grievance highlighted by the petitioner is relating to the denial of the benefits of the trade agreement between the Government of India and Sri Lanka, as evidenced by Ext.P1 in respect of the imports.

2. The petitioner imported 126 numbers of Agriculture Pneumatic Tyres from Colombo, Sri Lanka. Combined transport bill of lading dated 15.10.2025 is produced as Ext.P4 series. Upon arrival of the consignment at the Port in Kochi on 18.10.2025, the petitioner filed bill of entry bearing No.5179852 dated 18.10.2025 under Section 46 of the Customs Act for home consumption. Ext.P5 is the Certificate of Origin in respect of goods imported and according to the petitioner, based on the same, he is entitled to the benefits of Ext P1 Free Trade Agreement. However, respondents while assessing the bill of entry, rejected the claim of the petitioner for preferential duty treatment without assigning any reasons. Therefore, the petitioner submitted Ext.P6 letter requesting the respondent



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authorities to re-assess the bill of entry, based on Ext.P5 certificate of origin. However, the faceless authority of the Customs, rejected the said claim again, as per Ext.P11 and this writ petition is submitted by the petitioner challenging the same.

3. When the matter was earlier taken up on 16.12.2025, an interim order was passed, directing the 4th respondent to release the goods, upon the petitioner furnishing Bank Guarantee towards the amount due. Accordingly, on furnishing Bank Guarantee the goods were released.

4. A statement has been submitted on behalf of the respondents 3 to 5, controverting the averments contained in the writ petition, to which, the petitioner had already submitted a reply.

5. I have heard Sri Joseph Kodianthara, learned Senior counsel for the petitioner and Sri P.R Sreejith, the learned standing counsel for the respondents.

6. One of the main contentions raised by the learned Senior Counsel for the petitioner while challenging Ext.P11 order is that, the same was passed only on the reason that



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Ext.P5 Certificate of Origin was issued retrospectively by the authorities concerned. It is pointed out that, the same cannot be a ground to reject the claim, in the light of Ext.P10 clarification issued by the Central Board of Indirect Taxes and Customs vide communication F.No.456/311/2021-CUS.V. Ext.P12 judgment rendered by the High Court of Madras in W.P.(C).No.10913 of 2021 was also relied on, wherein, similar issue was considered and decided in favour of the petitioner therein.

7. After considering all the relevant aspects, I find merits in the submission made by the learned Senior Counsel. In Ext.P10 communication issued the Central Board of Indirect Taxes and Customs, it is specifically ordered that the preferential duty benefit may not be denied, merely on the ground that ISFTA certificates of origin have been issued retrospectively. The fact that, the denial of the same as evidenced by Ext.P11 was mainly on that reason, is not seriously disputed, even though the order does not contain any specific reason to that effect.

In such circumstances, I am of the view that,



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reconsideration of the matter is necessary. Accordingly, this writ petition is disposed of quashing Exts.P7 and P11, with a direction to the competent authority of the Customs, to reconsider the matter, taking note of the contents of Exts.P8 to P11. Necessary orders in this regard shall be passed, within a period of one month from the date of receipt of a copy of this judgment, by following the procedure contemplated in Section 28DA of the Customs Act and also in the light of the observations made herein.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

DG/28.1.29



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APPENDIX OF WP(C) NO. 46120 OF 2025

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE INDIA-SRI LANKA FREE TRADE AGREEMENT DATED 28.12.1998
Exhibit P2	TRUE COPY OF THE NOTIFICATION 19/2020 NT DATED 01.03.2000
Exhibit P3	TRUE COPY OF THE NOTIFICATION NO. 26/2000- CUSTOMS DATED 01.03.2000
Exhibit P3(a)	TRUE COPY OF THE NOTIFICATION 81/2020 - CUSTOMS(N.T.) DATED 21.08.2020
Exhibit P4	TRUE COPY OF COMMERCIAL INVOICE DATED 13.10.2025
Exhibit P4(a)	TRUE COPY OF PACKING LIST DATED 13.10.2025
Exhibit P4(b)	TRUE COPY OF COMBINED TRANSPORT BILL OF LADING DATED 15.10.2025
Exhibit P5	TRUE COPY OF THE CERTIFICATE OF ORIGIN ISSUED BY THE DEPARTMENT OF COMMERCE, SRI LANKA
Exhibit P6	TRUE COPY OF THE LETTER DATED 03.11.2025
Exhibit P7	TRUE COPY OF THE ASSESSED COPY DATED 13.11.2025 OF THE BILL OF ENTRY
Exhibit P8	TRUE COPY OF THE LETTER ISSUED BY THE DEPARTMENT OF COMMERCE, SRI LANKA DATED 14.11.2025
Exhibit P9	TRUE COPY OF THE EMAIL DATED 18.11.2025
Exhibit P10	TRUE COPY OF THE NOTIFICATION NO.456/311/2021-CUS.V DATED JUNE 2021
Exhibit P11	TRUE COPY OF THE ASSESSED COPY DATED 29.11.2025 OF THE BILL OF ENTRY
Exhibit P12	TRUE COPY OF THE JUDGMENT OF THE MADRAS HIGH COURT IN W.P. NO.10913 OF 2021
Exhibit P13	True copy of the bill of Entry no. 6222885 dated 11.12.2025