HC-KAR
CNR: KAHC010582012026

NC: 2026:KHC:55452
WP No. 26624 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 26624 OF 2026 (T-CUS)

BETWEEN:

1. MR ABDULLA NEDUMALAYIL
AGE 42 YEARS
SON OF HAMSA NEDUMALAYIL
NEDUMALAYIL HOUSE (THOTTATHILL),
SOUTH KODUVALLY, KODUVALLY P O
KOZHIKODE, KERALA-673572.

2. MR. YASIR MOHAMMAD
46 YEARS
SON OF YUSUF, RESIDENT OF VALIYA
PEEDIKAKKAL, ARAKKUPARAMBA,
PERINTHALMANNA, MALAPPURAM,
KERALA - 679322.

3. MR. SARAFUDHEEN P. T.
SON OF MOHAMMED P. T.,
RESIDENT OF PAROTHODUKAYIL,
MADRASABAZAR, KODUVALLY P. O., AVILORA,
KIZHAKKOTH, KOZHIKODE,
KERALA 673572.

...PETITIONERS

(BY SRI.HAARIS MOOSA., ADVOCATE)

Digitally signed by VANAMALA N
Location: HIGH COURT OF KARNATAKA

AND:

1. PRINCIPAL COMMISSIONER OF CUSTOMS
AIRPORT AND AIR CARGO COMPLEX,
KEMPEGOWDA INTERNATIONAL AIRPORT
DEVANAHALLI, BENGALURU- 560300.

2. COMMISSIONER OF CUSTOMS
AP AND ACC COMMISSIONERATE,
DEVANAHALLI, BENGALURU- 560300.

3. JOINT COMMISSIONER OF CUSTOMS
OFFICE OF THE PRINCIPAL COMMISSIONER OF
CUSTOMS, AIRPORT AND AIR CARGO COMPLEX,
KEMPEGOWDA INTERNATIONAL AIRPORT,
DEVANAHALLI, BENGALURU 560300.

...RESPONDENTS

(BY SRI.ARAVIND V CHAVAN., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE SCN NO. 37/2024-25 DATED 22.04.2024 (ANNEXURE A), TO THE EXTENT IT HAS CULMINATED IN THE IMPUGNED ADJUDICATION; B. QUASHING THE ORDER-IN-ORIGINAL NO. 1368/2025-26 (AP-ADM) DATED 28.02.2026 (ANNEXURE F) BEARING DIN 20260272MP0000777A4F PASSED BY RESPONDENT NO. 1; C. QUASHING THE CONSEQUENTIAL RECOVERY NOTICES ISSUED BY THE R2 (ANNEXURE-G,H AND J) AND THE COERCIVE STEPS INITIATED PURSUANT THERETO, INCLUDING THE

RECOVERY COMMUNICATIONS DATED 07.07.2026 BEARING DIN 20260772MP0000116291 ISSUED TO THE PETITIONERS.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner has called in question the Show Cause Notice dated 22.04.2024 [*Annexure-A*] under Section 124 of the Customs Act, 1962 [for short, '*the Customs Act*'] and the Order-in-Original dated 28.02.2026 [*Annexure-F*] which is a culmination of the Show Cause Notice. The Show Cause Notice relates to the recovery of undeclared foreign currency from the petitioner when he was scheduled to travel according to the authorities from Bengaluru to Bangkok. The petitioner has been extended personal hearings, and on 11.09.2025 [*one of the personal hearing dates*] the petitioner has filed a reply [*as per Annexure-C*] stating *inter alia* that he has not been

furnished with WhatsApp messages/screenshots relied upon by the investigating authorities and that no liability could be fastened on him unless these are provided along with a Certificate under Section 138C of the Customs Act.

2. Sri. Haaris Moosa, the learned counsel for the petitioner, submits that apart from the other grounds that the petitioner would urge, he would request this Court's interference with the impugned Order-in-Original dated 28.02.2026 on the short ground of failure to consider the petitioner's reply dated 11.09.2025; and in elaboration, the learned counsel canvasses that:

- the failure to furnish the copies has prejudiced the petitioner because there is a denial of an effective opportunity, and

- if only the reply was considered and a decision made on whether the petitioner is

to be furnished with the copies of the documents as aforesaid, the petitioner would have had an opportunity to effectively defend himself against the proceedings.

3. Sri Aravind V Chavan, a learned standing counsel for the respondents who is called upon to accept notice, is heard for disposal on whether this Court must intervene as requested and if this Court must, the terms upon which interference must be. The petitioner, while not disputing that he has been extended personal hearings prior to 11.09.2025 and on 11.09.2025, relies upon email addressed by his counsel to *aiu-admin.bia@gov.in* enclosing his reply to the Show Cause Notice. The petitioner in this reply has specifically stated amongst others the following:

> *"From para 6.2 to 6.5 refers to various Whatsapp conversion and screenshots relied upon by the investigation to fasten*

the liability under the Customs Act on the 2nd and 3rd noticee herein. These screenshots are neither annexed to the list of documents as given on pages 29 and 30 and there was no certificate under Section 138C of the Customs Act, 1962 that has been attached to Ref(1).”

4. However, the third respondent has confirmed the terms of the Show Cause Notice recording thus on the petitioner's response to the Show Cause Notice and participation in the proceedings.

The noticees Shri Abdulla Nedumalayil (the passenger), Shri Yasir Muhammed and Shri Sharafuddin PT, have not submitted any written reply to the above-mentioned show cause notice. Further, an opportunity to be heard in person or in virtual mode was granted to him as per Section 122A of the Customs Act, 1962 multiple times on 25.06.2025, 14.07.2025, 15.07.2025, 10.09.2025 and 11.09.2025. However, the said notices neither appeared for the personal India.

The third respondent, referring to the statutory provisions, has opined that the petitioner is not successful in proving that the foreign currency seized from his possession was acquired by him during the normal course of business and that he is unable to provide any evidence indicating that the foreign exchange obtained by him was by drawal from an authorised person in accordance with the provisions of the Foreign Exchange Management Act or the rules or regulations or directions made or issued thereunder. The third respondent has also observed that the petitioner has not even made any attempt or claim to prove that the foreign currency in his possession was ever brought by him while returning from the foreign travel.

5. This Court finds some force in the submissions by Sri Aravind V. Chavan that the reply is not considered because it is not handed over during the personal hearing or immediately after the

service of Show Cause Notice but is sent by e-mail, but the underlying salient is that the petitioner's reply has been sent by e-mail making the point that the petitioner is entitled to be served with copies of WhatsApp messages/screen shots along with the Certificate as contemplated under Section 138C of the Customs Act. This Court opines that whether the petitioner must be issued with the copies and Certificate as aforesaid will have to be examined *lest* the proceedings fail at a later stage on technical grounds. This persuades this Court to dispose of this petition interfering with the impugned Order-in-Original dated 28.02.2026 restoring the proceedings to the third respondent. Hence, the following:

ORDER

The petition is allowed in-part quashing the third respondent's Order-in-Original dated 28.02.2026 [*Annexure-F*] restoring the proceedings for re-consideration subject to the following terms.

[i] The petitioner, without further notice, shall appear with the third respondent on ***30.11.2026*** along with a certified copy of this order and file a copy of the reply dated 11.09.2026.

[ii] The third respondent after hearing the petitioner shall first decide on whether he must be furnished with certain documents [Whatsapp/screenshots] along with Certificate under Section 138-C of the Customs Act and proceed to pass orders and then proceed further based on such consideration.

Sd/-
(B M SHYAM PRASAD)
JUDGE

SA
Ct:sr