



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12921 OF 2025**

Imran Humayun Chandiwala
Age 47 years, Occu – Business,
222, A1 Moonaz Arcade, 1st Floor,
Opposite Andheri Post Office,
S.V.Road, Andheri (West),
Mumbai – 400 058.

... Petitioner

versus

1. The State of Maharashtra,
Motor Vehicles Department,
through the Transport Commissioner,
Maharashtra State, having office at
5th Floor, MTNL Building No.2,
M.G.Road, Fort, Mumbai – 400 001.
2. Appellate Authority & Joint Transport
Commissioner (Enforcement-I),
Mumbai, having address at,
Office of the Transport Commissioner,
Maharashtra State, having office at,
5th Floor, MTNL Building No.2,
M.G.Road, Fort, Mumbai – 400 001.
3. Dy. Regional Transport Officer,
Having its office at, Regional Transport
Office, Mumbai (W), 111, Ambiwali
Village, Opp. To Manish Nagar,
Andheri West, Mumbai – 400 053. ... Respondents

Mr. Cheraq Balsara i/by Mr. Yogesh Patil, for Petitioner.
Mr. Abhishek Bhadang, AGP for State.

CORAM: N.J.JAMADAR, J.

**CLOSED FOR ORDER ON : 13 NOVEMBER 2025
PRONOUNCED ON : 2 DECEMBER 2025**

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of an order dated 9 September 2025 in Appeal No.12 of 2025, passed by the Appellate Authority and Joint Transport Commissioner, Maharashtra State, Mumbai, whereby the Appeal preferred by the Petitioner against an order dated 27 March 2025 passed by the Registering Authority, thereby cancelling the Certificate of Registration in respect of the Vehicle bearing Chassis No.JNITANY62A0120339 and Engine No.VK56VD397632A, under Section 55(5) of the Motor Vehicles Act, 1988 (the Act, 1988), came to be dismissed.
3. The background facts necessary for the determination of this Petition can be stated, in brief, as under :
 - 3.1 A Nissan petrol car bearing Chassis No. JNITANY62A0120339 was initially registered with RTO Manipur in the name of Meenarani Devi, under a Certificate of Registration issued on 12 February 2020. On 28 February 2020, the State Transport Department, Senapati, Manipur, issued NOC to register the said car with RTO, Mumbai. Consequently, the said car came to be registered in the name of Meenarani Devi with Registration No.MH-02/FL-8055.

3.2 The Petitioner claimed to have purchased the said vehicle from Meenarani Devi for a consideration of Rs.1,22,50,000/-. Upon a notice of transfer of ownership of the motor vehicle being submitted to the RTO, Mumbai, on 1 December 2020, the said car came to be registered in the name of the Petitioner.

3.3 Subsequently, it transpired that the said car was fraudulently imported in the name of Mr.Jong Yong Ryong, a diplomatic officer, by dishonestly availing the benefit of exemption from payment of customs duty under Notification No.03/1957-Cus., dated 8 January 1957. The Director of Revenue Intelligence, thus, seized the said vehicle in the month of August 2021. By an order dated 31 January 2022, the Deputy Commissioner of Customs (Import), Chennai, allowed the provisional release of the said car on the condition of execution of bond to the tune of Rs.32,35,50,000/- and bank guarantee of Rs.70,85,745/-.

3.4 The Petitioner filed Settlement Application before the Central Excise and Service Tax Settlement Commission, under sub-Section (5) of Section 127C of the Customs Act, 1962. By an order dated 8 May 2024, the Commission settled the customs duty at Rs.66,00,420/- and interest of Rs.35,77,789/-. The car was also confiscated. However, the Petitioner was given an option to redeem the same upon payment of fine of Rs.5,00,000/-. The Commission also granted immunity from the penalty and prosecution

under Section 127H of the Act, 1962, subject to payment of duty, interest and fine.

3.5 The Petitioner paid the customs duty, interest and fine imposed by the Commission. The car was released.

3.6 In the meanwhile, Anti Corruption Bureau registered the offences vide C.R.No.18 of 2023 in connection with the registration of the said car on the basis of the forged bill of entry against the then Sub-Regional Transport Officer and others. The vehicle was again seized by the ACB on 20 June 2024.

3.7 The Petitioner filed an application under Section 457 of the Code of Criminal Procedure, 1973, before the learned Special Judge. By an order dated 29 June 2024, the car was ordered to be returned to the Petitioner upon executing a bond in the sum of Rs.75,00,000/-.

3.8 On 30 January 2025, the Deputy RTO issued a notice to the Petitioner calling upon him to show cause as to why the registration of the said car be not cancelled under Section 55(5) of the Act, 1988. The Petitioner gave reply to the said notice.

3.9 By an order dated 27 March 2025, the Registering Authority and Deputy Regional Transport Officer, cancelled the registration opining, *inter alia*, that it was indirectly conceded by the Petitioner that the said car was registered on the strength of a bogus bill of entry.

3.10 Being aggrieved, the Petitioner preferred an appeal before the Appellate Authority.

3.11 By the impugned order, the Appellate Authority dismissed the appeal, concurring with the view of the Registering Authority. It was observed that the fact that the conduct of the Petitioner was not blameworthy did not alter the basic fact that the registration of the vehicle was obtained on the basis of the forged documents.

3.12 Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

4. An affidavit in reply is filed on behalf of the Respondents in support of the impugned orders. In the affidavit in reply, an endeavour was made to contend that, when Meenarani Devi had submitted an application for transfer of the registration of the vehicle to RTO, Mumbai, from RTO, Senapati, Manipur, she had furnished her new address, which was found to be that of the Petitioner. Therefore, it cannot be said that the Petitioner was completely unaware of the fraud.

Submissions :

5. Mr. Cherag Balsara, learned Counsel for the Petitioner submitted that the impugned orders are wholly unsustainable as the authorities have unjustifiably discarded clear and categorical observations of the Settlement Commission that the Petitioner had made full and true disclosure and deposited the customs duty, interest and penalty, and, therefore, immunity

from the prosecution was granted to the Petitioner under Section 127H of the Customs Act, 1962.

6. Mr. Balsara would urge, initially the Petitioner was deceived by Meenarani Devi and Rehman Shaikh, an agent through whom the Petitioner had entered into the transaction with Meenarani Devi. The Petitioner paid substantial customs duty, interest and penalty. Yet, by the impugned orders, the Petitioner has been deprived of the legitimate right to run the vehicle, as the cancellation of registration completely disables the Petitioner from plying the vehicle. In the circumstances of the case, according to Mr. Balsara, when no fault is attributable to the Petitioner, nor the Petitioner is privy to the alleged fraud, the impugned orders cancelling the registration of the vehicle, in a sense, subject the Petitioner to double jeopardy.

7. Mr. Balsara would urge, in the absence of any cogent material, the Petitioner cannot be said to be a confederate in the conspiracy to import the car by evading the customs duty. To buttress this submission, Mr. Balsara placed reliance on the judgment of the Supreme Court in the case of **Central Bureau of Investigation V/s. V.C.Shukla and Ors.**¹

8. In any event, since the ground that the Petitioner was privy to the transaction, was neither raised in the show cause notice, nor in the impugned orders, the Respondents cannot be permitted to support the impugned orders

¹ (1998) 3 SCC 410

by filing an affidavit. To this end, Mr. Balsara placed reliance on the judgment of the Supreme Court in the case of **Mohinder Singh Gill and anr. V/s. The Chief Election Commissioner, New Delhi and Ors.**²

9. In opposition to this, Mr. Bhadang, learned AGP, stoutly supported the impugned orders. It was submitted that in the complaint which the Petitioner had lodged against Mr. Rehman Shaikh and others, the Petitioner had alleged that on the basis of the forged documents, he was defrauded by Meenarani Devi, Rehman Shaikh and Faizan Sayed. When the Petitioner himself admits that he was defrauded on the basis of forged documents, the Petitioner cannot be permitted to mount a challenge to the cancellation of the registration obtained on the basis of documents which were forged.

10. Mr. Bhadang further submitted that, under Rule 47 of the Central Motor Vehicles Rules, 1989, in case of imported vehicles, an application for registration of the motor vehicle must be accompanied by a customs clearance certificate. In the case at hand, a forged bill of entry was filed to claim that the vehicle was imported for the diplomatic officer. Therefore, the authorities were within their rights in cancelling the registration.

11. Mr. Bhadang further submitted that, as the authorities below have recorded concurrent findings, which cannot be said to be perverse, this Court in exercise of the supervisory jurisdiction ought not to interfere with such

² (1978) 1 SCC 405.

orders. Mr. Bhadang placed reliance on the judgment of the Supreme Court in the case of **Ajay Singh Vs. Khacheru and Ors.**³, wherein it was enunciated that it is well-established principle that the High Court, while exercising its jurisdiction under Article 226 cannot reappreciate evidence and arrive at a finding of facts unless authorities below had either exceeded its jurisdiction or acted perversely.

Consideration :

12. The aforesaid submissions now fall for consideration. At the outset, it is necessary to note that, there is not much controversy over the fact that the car was imported in the name of Mr.Jong Yong Ryong, a Diplomatic Officer, without payment of duty by availing the benefit of the customs duty exemption under Notification No.03/1957-Cus., dated 8 January 1957. It was initially registered in the name of Meenarani Devi with RTO, Senapati, Manipur. Meenarani Devi got registration transferred to RTO, Mumbai, and registration certificate was issued in the name of Meenarani Devi by RTO, Mumbai. Thereafter, Meenarani Devi sold the car to the Petitioner, and, thus, the Petitioner became the registered owner of the car. The seizure of the car first by DRI and then by ACB, is a matter of record. Likewise, the release of the car, pursuant to the orders of the Settlement Commission upon payment of penalty of Rs.5 lakhs, in view of the confiscation, and, return of the car to the

³ (2025) 3 SCC 266

Petitioner pursuant to the orders of the learned Special Judge in C.R.No.18 of 2023 are also not much in dispute.

13. Before advertig to consider what implication the aforesaid orders, especially the order dated 8 May 2024 passed by the Settlement Commission, have on the challenge of the Petitioner to the cancellation of registration, it may be apposite to note few provisions of the Act, 1988 and the Rules.

14. Chapter IV of the Act, 1988 subsumes provisions under the caption 'Registration of Motor Vehicles'. Section 39 declares that, no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with the said Chapter and the certificate of registration has not been suspended or cancelled. Section 39, thus, emphasises the necessity of registration and the consequences that entail the cancellation of registration. Simply put, the vehicle sans registration cannot be driven.

15. Section 40 of the Act, 1988 provides that, subject to the provisions of Sections 42, 43 and 60, every owner of a motor vehicle shall cause the vehicle to be registered by any registering authority in the State in whose jurisdiction he has the residence or place of business where the vehicle is normally kept. Section 41 contains a fasciculus of provisions for the

registration of the vehicle. Section 42 envisages special provision for registration of motor vehicles of diplomatic officers, etc. Sub-sections (1) and (2) of Section 42 assume significance in the context of the controversy at hand. They read as under :

“42. Special provision for registration of motor vehicles of diplomatic officers, etc. - (1) Where an application for registration of a motor vehicle is made under sub-section (1) of section 41 by or on behalf of any diplomatic officer or consular officer, then notwithstanding anything contained in sub-section (3) or sub-section (6) of that section, the registering authority shall register the vehicle in such manner and in accordance with such procedure as may be provided by rules made in this behalf by the Central Government under sub-section (3) and shall assign to the vehicle for display thereon a special registration mark in accordance with the provisions contained in those rules and shall issue a certificate (hereafter in this section referred to as the certificate of registration) that the vehicle has been registered under this section; and any vehicle so registered shall not, so long as it remains the property of any diplomatic officer or consular officer, require to be registered otherwise under this Act.

(2) If any vehicle registered under this section, ceases to be the property of any diplomatic officer or consular officer, the certificate of registration issued under this section shall also cease to be effective, and the provisions of sections 39 and 40 shall thereupon apply.”

16. Rule 47 of the Central Motor Vehicles Rules, prescribes the documents

which are required to be annexed to an application for registration of the motor vehicles. It reads as under :

"47. Application for registration of motor vehicles

(1) An application for registration of a motor vehicle shall be made in Form 20 to the registering authority within a period of 1[seven days] from the date of taking delivery of such vehicle, excluding the period of journey and shall be accompanied by—

- (a) sale certificate in Form 21;
- (b) valid insurance certificate;
- [(c) copy of the proceedings of the State Transport Authority or Transport Commissioner or such other authorities as may be prescribed by the State Government for the purpose of approval of the design in the case of a trailer or a semi-trailer;]
- (d) original sale certificate from the concerned authorities in Form 21 in the case of ex-army vehicles;
- (e) proof of address by way of any one of the documents referred to in rule 4;
- (f) temporary registration, if any;
- (g) road-worthiness certificate in Form 22 from the manufacturers, 3[Form 22-A from the body builders];
- (h) custom's clearance certificate in the case of imported vehicles along with the licence and bond, if any:

Provided that in the case of imported vehicles other than those imported under the Baggage Rules, 1998, the procedure followed by the registering authority shall be same as those procedure followed for registering of vehicles manufactured in India, and]

(i) appropriate fee as specified in rule 81.
[(j) proof of citizenship;
(2) In respect of vehicles temporarily registered, application under sub-rule (1) shall be made before the temporary registration expires.”

17. Section 55 with which we are primarily concerned in this Petition, contains provisions for the cancellation of registration. Sub-section (5) of Section 55, under which the registration of the vehicle in question has been cancelled, reads as under :

“(5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgment due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the registration.”

18. Evidently, under sub-section (5) of Section 55, if the registering authority is satisfied that the registration of the vehicle has been obtained on the basis of the documents which were false in any material particular, or by making false representation of facts, the registering authority is empowered to

cancel the registration, after providing an opportunity of hearing to the registered owner to make a representation against the notice to show cause as to why the registration be not cancelled.

19. In the case at hand, the impugned orders do not suffer from procedural irregularities. It seems that, the authorities have followed the principles of natural justice and have provided an effective opportunity of hearing to the Petitioner before passing the impugned order. The challenge in this Petition is on the substance of the matter. Whether the authorities, in the backdrop of the facts that have emerged, were justified in cancelling the registration ?

20. The thrust of the submission on behalf of the State was that, notwithstanding the payment of customs duty, interest and fine, as imposed by the Settlement Commission and the latter's decision to exempt the Petitioner from penalty and prosecution, the authorities were justified in cancelling the registration, as it could not be controverted that the vehicle was imported on the basis of a forged bill of entry to evade the customs duty.

21. Mr. Balsara would urge, in the circumstances of the case, the view of the authority suffers from the vice of a pedantic and hyper technical approach. Banking heavily upon the observations of the Settlement Commission that the Petitioner was not at all at fault and had taken all the precautions as a prudent person, before purchasing the car, Mr. Balsara would urge, the Petitioner cannot be made to suffer the consequences of the fraudulent actions of the

persons who deceived him to purchase the car, despite payment of customs duty, interest and fine.

22. The observations of the Settlement Commission in paragraph Nos.7.14 and 7.15 assume critical salience. They read as under :

“7.14 The Bench observes that it has been established by the investigation itself that all the documents pertaining to ownership of the car were forged by Rehman Iqbal Shaikh to sell the said vehicle to Shri Imran Chandiwala. As brought out in the SCN and elaborated supra, the Co-Applicant purchased the said car on the bonafide belief that the documents were genuine. The SCN also elaborates on the fact that documents such as the invoice and Bill of Lading were forged by the syndicate in order to make the prospective buyer believe that the said Nissan Petrol car had been imported in the name of Meenarani Devi (paras 9.6.1 and 9.6.2 of the SCN). Furthermore, the Bench notes that the vehicle was registered by the RTO in Mumbai bearing Registration No.MH-02/FL-8055 and the supporting documents included a NOC issued by the RTO, Manipur. In view of the above, normal precautions by way of prudence within means of any ordinary citizen were undertaken.

7.15 Further, the DRI has conducted detailed investigations with respect to the various actors involved in the smuggling syndicate but have not been able to establish any connection of Shri Imran Chandiwala to the import of the impugned car. Thus, the Bench holds that Shri Imran Chandiwala is not liable to penalty under the provisions of Customs Act, invoked in the SCN.”

23. In the light of the aforesaid observations, the provisions contained in the Customs Act, 1962, deserve to be noted. Under Section 127H, the Settlement Commission is empowered to grant immunity from prosecution and penalty. The provisions contained in Section 127J give overriding effect to the order passed by the Settlement Commission under Section 127C(5) of the Act, 1962. It reads as under :

“127J. Order of settlement to be conclusive

Every order of settlement passed under sub-section (5) of section 127C shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.”

24. A conjoint reading of the provisions contained in Sections 127C(5) and 127H of the Act, 1962, justifies an inference that once Settlement order is passed, the determination therein cannot be reopened in any proceedings under the said Act, save as otherwise provided by the said Act, or under any other law. Therefore, it cannot be said that the determination by the Settlement Commission with regard to the import of the car by evading the customs duty, to the extent it reflects upon the role of the Petitioner, is of no consequence. As noted above, under Rule 47 of the rules, what was otherwise required to be produced, in the case of imported vehicle was,

customs clearance Certificate. To evade the customs duty, the bill of entry was allegedly forged. The Petitioner has paid the customs duty, interest and fine. Thus, the Petitioner made the reparation for the illegal acts of his vendor. Prima facie, the Petitioner was not involved in the illegal import of the vehicle. The authorities under the Act, 1988, therefore, ought to have taken into account the order passed by the Settlement Commission.

25. The registration of the vehicle in the name of the Petitioner could not have been cancelled on the sole premise that, the initial registration in the name of Meenarani Devi was obtained by making a false representation and on the basis of forged documents.

26. At this stage, the provisions contained in Section 42(2) of the Act, 1988 deserve to be noted. Sub-section (2) of Section 42 provides that if any vehicle registered under Section 42 governing the registration of motor vehicle of diplomatic officer, ceases to be the property of diplomatic officer or consular officer, the certificate of registration issued under the said Section, shall also cease to be effective and the provisions of Sections 39 and 40 shall thereupon apply. The legislature has thus envisaged a situation of diplomatic officer ceasing to hold the vehicle by transfer or otherwise, and provided a mechanism to register the vehicle in the ordinary manner.

27. If the fact situation in the case at hand is considered in the light of the aforesaid provisions, the certificate of registration obtained on the basis of a

false bill of entry, would cease to operate upon discovery of the fraud. In the meanwhile, if the vehicle had changed hands and came to be registered in the name of an innocent purchaser who pays the customs duty, interest and fine, as ordered by the Settlement Commission, then the vehicle ought to be registered under the provisions of Section 40 of the Act, 1988, lest the consequences of fraudulent action would befall an innocent purchaser.

28. At this stage, recourse to the doctrine of proportionality may be apposite. Proportionality is a test which the Court applies to judge the justifiability of the decision on the basis of the norms which the decision making authority ought to have kept in view. Whether the authority has given due importance to all the relevant factors, in the decision making process, and arrived at a decision, which satisfies the balancing test and necessity test.

29. A useful reference in this context can be made to a decision of the Supreme Court in the case of **Coimbatore District Central cooperative Bank V/s. Coimbatore District Central Cooperative Bank Employees Assn and Anr.**⁴, wherein the principle of proportionality was illuminatingly postulated, as under :

“17. So far as the doctrine of proportionality is concerned, there is no gainsaying that the said doctrine has not only arrived at in our legal system but has come to stay. With the rapid growth of Administrative Law and the need and necessity to control possible abuse of discretionary powers by various

⁴ (2007) 4 SCC 669

administrative authorities, certain principles have been evolved by Courts. If an action taken by any authority is contrary to law, improper, unreasonable, irrational or otherwise unreasonable, a Court of Law can interfere with such action by exercising power of judicial review. One of such modes of exercising power, known to law is the 'doctrine of proportionality'.

18. 'Proportionality' is a principle where the Court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise - the elaboration of a rule of permissible priorities.

19. de Smith states that 'proportionality' involves 'balancing test' and 'necessity test'. Whereas the former ('balancing test') permits scrutiny of excessive onerous penalties or infringement of rights or interests and a manifest imbalance of relevant considerations, the latter ('necessity test') requires infringement of human rights to the least restrictive alternative. ['Judicial Review of Administrative Action'; (1995); pp. 601-605; para 13.085; see also Wade & Forsyth; 'Administrative Law'; (2005); p.366].

20. In Halsbury's Laws of England, (4th edn.); Reissue, Vol.1(1); pp.144-45; para 78, it is stated;

"The court will quash exercise of discretionary powers in which there is no reasonable relationship between the objective which is sought to be achieved and the means used to that end, or where punishments imposed by administrative

bodies or inferior courts are wholly out of proportion to the relevant misconduct. The principle of proportionality is well established in European law, and will be applied by English courts where European law is enforceable in the domestic courts. The principle of proportionality is still at a stage of development in English law; lack of proportionality is not usually treated as a separate ground for review in English law, but is regarded as one indication of manifest unreasonableness.

21. The doctrine has its genesis in the field of Administrative Law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without abuse of discretion. There can be no 'pick and choose', selective applicability of Government norms or unfairness, arbitrariness or unreasonableness. It is not permissible to use a 'sledge-hammer to crack a nut'. As has been said many a time; "Where paring knife suffices, battle axe is precluded".

(emphasis supplied)

30. For the foregoing reasons, in the peculiar facts of the case, this Court is of the considered view that the dictate of command of justice warrants that the impugned orders be quashed and set aside and the certificate of registration restored. The Writ Petition, therefore, deserves to be allowed.

31. Hence, the following order :

ORDER

(i) The Writ Petition stands allowed.

(ii) The impugned orders dated 9 September 2025 and 27 March 2025 cancelling the certificate of registration of the subject Vehicle stand quashed and set aside.

(iii) Rule made absolute in the aforesaid terms.

(iv) No costs.

(N.J.JAMADAR, J.)