IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 15.07.2026	Delivered On: 10.08.2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS. JUSTICE N. MALA

W.A.No.1855 of 2026
& C.M.P.No.16706 of 2026

Principal Commissioner of Customs,
Customs House,
60, Rajaji Salai,
Chennai – 600 001. … Appellant

vs.

Shri Vikram Jain,
Son of Shri Mittalal,
Proprietor of M/s.Globe Opticals,
No.2, Ganguraman Street, Ground Floor,
Sowcarpet, Chennai – 600 003. … Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to allow the above Writ Appeal by setting aside the impugned order dated 10.12.2025 passed in W.P.No.10428 of 2025.

For Appellant : Mr.Sai Srujan Tayi

For Respondent : Mr.Nitheyash Nataraj,
for Mr.Vaibhav Rangarajan Venkatesh.

JUDGMENT

(Order of this Court made by Dr. G. Jayachandran, J.)

Intra-court appeal has been filed by the Principal Commissioner of Customs, being aggrieved by the order passed by the Learned Single Judge in the writ petition filed by the respondent, Shri Vikram Jain, son of Shri. Mittala.

2. The brief facts of the case are as follows:-

The Special Intelligence and Investigation Branch (SIIB), Chennai Preventive Commissionerate, received an incident report from Chennai-II (Import Commissionerate) on 25.04.2024 regarding misuse of the Amnesty Scheme of the Directorate General of Foreign Trade (DGFT), for one-time settlement in default of export obligation by Advance Licence and Export Promotion Capital Goods (EPCG) authorization holders.

3. Under this scheme, the authorization holder can avail Export Obligation Discharge Certificate (EODC) in respect of cases where they have failed to complete the export obligation, on payment of the customs duties exempted and the scheme also exempts payment of interest on the Additional Customs Duty and the Special Additional Customs Duty.

4. Based on the information and the material verification, it was found that some of importers have fraudulently obtained closure letter from the DGFT under the Amnesty Scheme by fraudulent means and bribing officials. Action was taken conducting search of the suspected persons premises. In the course of the said search, it revealed that the entries in the EODC section register had also been forged with some unknown signatures, as though the Department officers had reconciled the documents and closed the cases finally on verification of documents for closure from the DGFT.

5. One Thiru.D.Manikandan, the representative of one of the suspected importer company revealed that he paid Rs.50 lakhs as bribe to one Shri.Sandeep Kumar Chaurasia, Appraiser, Legal Section, Chennai-III Commissionerate, for forging letters to the DGFT to show that challan payments were actually made to the extent of Rs.1.66 crores approx, for the closure of the said cases under the Amnesty scheme. The amount paid to Shri.Sandeep Kumar Chorasiya, under the pseudonym Ravindra Sethu, was cross-verified and found to be correct. For getting pecuniary advantage by forging documents, Thiru.D.Manikandan was arrested. The seizure of cell phone used by Shri.Sandeep Kumar Chaurasia further disclosed the identity of other persons involved in the fraudulent claim under the Amnesty scheme.

6. In the further course of action, the premises of M/s.Globe Opticals, Shop No.2, Ganguraman Street, Kamdhenu Complex, Sowcarpet, Chennai-600 001, was searched on 08.05.2024. The search revealed that Shri.Vikram Jain, (the writ petitioner) is the owner of the shop. However, his father Shri. Mittalal and one Shri Ramalal were in control of the shop and acting as hawala agents. They were the conduits between Shri.Sandeep Kumar Chorasiya and other hawala operators. Incriminating material, including cash to the tune of Rs.21,55,000/- was seized under mahazar, on reasonable belief that the unaccounted transactions of money earned through illegal gratification pertaining to fraudulent closure of EPCG Licenses. The statement of Shri.Mittalal, admitting his role in the hawala transactions along with Shri.Ramlal, lead to the seizure of the cash and the phone.

7. Challenging the seizure, Shri.Vikram Jain, son of Shri.Mittalal, has filed writ petition before this Court, with the following prayer:

> *"To call for records on the file of the Respondent in its impugned seizure memo dated 08.05.2024 and quash the same as it is unreasonable,*

illegal improper and in gross violation of principles of natural justice and consequently, direct the respondent to release the seized items covered under the seizure memo dated 08.05.2024."

8. The writ petitioner challenging the seizure on the ground that the currency seized from his premises belongs to him and he has proper accounts for the money. Whereas, the seizure made under Section 110(2) of Customs Act, is beyond the competency of the Officer. Since no show cause notice been issued within six months from the date of seizure, the money recovered has to be returned.

9. The Learned Single Judge, being convinced by the submissions made by the Learned Counsel for the writ petitioner has held that the Customs Department can exercise its powers only as per the provisions of Customs Act, 1962. The seizure of currency effected under Section 110(1) of the Customs Act, 1962 to be necessarily comply with the timeline prescribed under Section 110(2) of Customs Act. Since no show cause notice been issued by the Customs Department either to Shri.Mittalal or to his son, Shri.Vikram Jain, within the stipulated period of six months prescribed under Section 110(2) of

Customs Act, the cash seized under the seizure memo ordered to be refunded within the period of eight weeks. Nonetheless, the Learned Single Judge has granted liberty to the Department to initiate fresh action against the petitioner if the same deserves any merits in whatever manner as may deem it fit.

10. Challenging the said order, the present Intra-court Appeal is filed by the Department on the following grounds:-

> *A. Impugned Order passed by the learned judge in W.P.No.10428 of 2025 dated 10.12.2025 is erroneous on facts, in law, and the weight of evidence is contrary to the statutory provisions and is opposed to the admitted facts of the case.*
>
> *B. The Learned Judge erred in law in holding that Indian currency seized during investigation necessarily falls under Section 110(1) read with Section 110(2) of the Customs Act, 1962. The finding overlooks the express statutory distinction between "goods" seized for confiscation and "documents or things" seized as material evidence under Section 110(3). The seized currency in the present case was not seized as contraband or for confiscation but as crucial material evidence of Hawala transactions and illegal gratification, squarely falling within the ambit of "things" under Section 110(3).*

C. The Learned Judge failed to note the case of Rohit Kumar v. Union of India dated 21.12.2001, wherein Calcutta High Court categorically held that money lying in a bank account qualifies as a "thing" under Section 110(3) of the Customs Act, 1962, and that seizure of such money as material evidence for investigation is legally permissible. The expression "documents or things" under Section 110(3) is of wide amplitude and includes money, when such money is relevant for proceedings under the Customs Act. This judgment directly supports the Department's stand that currency seized as evidence of illegal gratification/Hawala transactions is a "thing", not "goods" seized for confiscation.

D. The Learned Judge erred in applying the six-month limitation prescribed under Section 110(2), which is applicable only to goods seized under Section 110(1) for the purpose of confiscation. The statutory scheme does not prescribe any time limit for retention of documents or things seized under Section 110(3), which can be retained till completion of proceedings. The impugned order renders Section 110(3) otiose and defeats legislative intent. Thus there was a misinterpretation of Section 110(2) and erroneous application of limitation for issuance of show cause notice.

E. The Hon'ble Judge failed to appreciate that the seized cash and mobile phone constitute core *evidentiary material in an ongoing investigation involving Hawala transactions, illegal gratification, forgery of official records, and fraudulent issuance of EPCG duty discharge letters. Premature release of such evidence gravely prejudices the investigation and undermines the ability of the authorities to establish the larger conspiracy. There is apparent failure to appreciate that the seizure was part of an ongoing investigation into serious economic offences not confined to corruption of public servant.*

F. The Learned Judge failed to give due weight to the voluntary statement of Shri Mittalal recorded under Section 108 of the Customs Act, 1962, wherein he admitted his role in collecting cash on behalf of Shri Ramlal based on currency token identification linked to Hawala transactions. Statements under Section 108 are admissible and substantive evidence, and the same form the legal foundation for seizure under Section 110(3).

G. The Hon'ble Court erred in exercising writ jurisdiction to quash the seizure memo and direct return of seized currency during the pendency of investigation, despite the settled principle that courts should not interfere in investigative processes unless there is a patent lack of jurisdiction or mala fides, neither of which were established in the present case.

H. The Honble Court failed to consider that the seized mobile phone is subject to forensic examination, which is a crucial step in corroborating digital evidence, including chats, currency tokens, and linkages between the accused persons. Release of the seized items at this stage irreversibly compromises forensic integrity and evidentiary continuity. The evidentiary value of seized digital devices and pending forensic analysis was not considered by the Learned Judge.

I. The Learned Judge erred in relying upon judgments relating to seizure of currency from passengers or isolated seizures unconnected with a larger conspiracy. The present case pertains to seizure of proceeds of crime and material evidence during investigation of organized Hawala transactions involving a public servant, rendering such precedents distinguishable on facts and law.

J. The Learned Judge failed to consider that the case has already been referred to the Central Bureau of Investigation through the Vigilance channel, and the investigation has national ramifications involving corruption and abuse of official position. Judicial interference at this stage frustrates coordinated investigation by specialized agencies.

K. The impugned order defeats the object of the Customs Act and encourages destruction of evidence. It *sets a dangerous precedent whereby proceeds of crime and instrumentalities used for commission of economic offences may be reclaimed merely on technical grounds, thereby defeating the object of the Customs Act, 1962 and encouraging obstruction of investigation.*

L. The liberty granted by the Hon'ble Court to initiate fresh action is illusory and inadequate as release of seized evidence irreversibly compromises the chain of custody, forensic analysis, and evidentiary value, rendering any subsequent proceedings ineffective.

11. The Learned Standing Counsel appearing for the Appellant/ Department submitted that, due to misinterpretation of Section 110 of Customs Act, 1962 and on failure to understand the ramifications of the violations committed by the writ petitioner and his father, the Learned Single Judge had passed the impugned order. As a consequence, the entire process of investigating to find the root of the crime, which squarely attracts other graver offences like Money Laundering and Income Tax Act are now been stalled. The writ petition filed with the sole intention to delay the investigation, which was at crucial stage of referring the seized material to the Forensic experts to obtain Forensic imaging. Due to the impugned order of the Learned Single

Judge everything has come to standstill. The materials seized includes electronic evidence. Any delay in forwarding the seized material for expert opinion will cause difficulty in retrieving the data.

12. The Learned Counsel appearing for the Department specifically contended that the investigation by the Special Intelligence and Investigation Branch (SIIB), Chennai Preventive Wing had identified loss of revenue of about Rs.5 crores. Out of which a sum of Rs.1.66 crores been availed under the Amnesty Scheme by forging documents. The payment of Rs.50 lakhs to Shri.Sandeep Kumar Chaurasia, Appraiser, Customs Department and the unaccounted cash of Rs.21,55,000/- which believed to be part of Hawala transactions, need to be proved through electronic evidences and other materials, for which the material seized requires to be sent for forensic analysis and the unaccounted money cannot be summarily returned before completion of investigation.

13. Though the materials were seized pursuant to the powers conferred to the appropriate Officer under Section 110 of Customs Act, 1962, the incriminating material collected does not fall within the ambit of Section

110(1) of Customs Act. There are enough materials available to proceed against the perpetrators of the crime for offence under the Prevention of Money Laundering Act, the Income Tax Act, Prevention of Corruption Act etc. If material seized on reasonable belief of violating the Customs Act, later it also found to be infractions of other laws of the land, Section 110(1) will not apply but only 110(3) of the Act will apply. As such the mandate under Section 16(2) will not strictly apply. More so, if the return of goods seized is permitted, it will lead to destruction of evidence of grave financial crimes.

14. Per contra, the Learned Counsel appearing for the respondents submitted that it is clear violation of law committed by the Officers of Customs Department. When the petitioner has adduced documents to show that the money seized belongs to him and properly accounted, there is no necessity to withhold that money any further. More so, without issuing show cause notice, within six months the money seized cannot be returned. The statute mandates the money to be returned forthwith.

15. Heard the Learned Counsel for the Appellant/Department and the Learned Counsel for the respondents.

Section 110 of the Customs Act, 1962, read as below:

110. Seizure of goods, documents and things.—

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

……

…….

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

……

……

…….

(3) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

16. Section 110 of the Customs Act, 1962 deals with seizure of goods, documents and things. The provision without any ambiguity says, if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods. Where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that the owner shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. [see section 110(1)]. Sub-Section (2) of Section 110 says, if the seizure is under sub-section (1) of Section 110, the seized goods to be released if no notice under clause (a) of Section 124 of the Customs Act, 1962 is given within a period of six months of seizure of the goods. The six months period can be extended by the Principal Commissioner of Customs for up to another period of six months after informing the person in writing, from whom the goods were seized, before the expiry of period so specified during the initial seizure. In contrast, we could see that under Section 110 (3) of the Customs Act, 1962 which deals with seizure of documents and 'things' relevant to any proceedings under the Customs Act 1962, is without any prescription of time limit. Unlike Section 110 (1) of the Customs Act, 1962, which is subject to sub-section (2), there is no specific time limit for issuance of show cause notice for seizure of documents or 'things' prescribed. On the other hand, any documents or 'things' seized under Section 110(3) of the Customs Act, 1962 is permitted to be retained for the duration of the proceedings.

17. The Learned Judge, who had rightly understood and interpreted the provision of Section 110(1) and 110(2) so far, unfortunately had ignored and failed to consider the circumstances under which sub-section (1) will apply and when sub-section (3) will apply. These two sub-sections being distinct and applicable at two different circumstances, it is relevant to take note of the fact why, how, where and from whom the currencies were seized. In that contest, the observation of the Learned Single Judge that the Customs Department is empowered to initiate action against the violators only in accordance with the provisions of the Customs Act and the violations must necessarily arise out of exports or imports, is only partially incorrect. The wrong interpretation of the section has lead to the erroneous conclusion.

18. A proper officer of the Customs Department, in the course of exercising his powers conferred under Section 110 of the Act, may stumble upon incriminating materials leading to its seizure. The material so seized may fall under purview of other legislations apart from the Customs Act. In such case, investigation or enquiry to be conducted by the appropriate authorities empowered to investigate/enquire those violations. Therefore, currencies which fall under the generic term 'goods', only when it is transported through the customs frontier, whether legally or illegally. In such cases, sub-section (1) of Section 110 will apply and the time frame prescribed under sub-section (2) will follow. However, if the currencies seized by the proper officer empowered under Section 110 of the Act, in connection with other violations or offences, they are deemed to be 'things' covered under Sub-Section 110(3).

19. From the records as well as the admission made by the respondent, the Currencies were seized by the proper officer of Customs in the course of investigating fraudulent claims under the Amnesty Scheme by fabricating documents. In such circumstances, the expression 'goods seized including the currencies' used in Section 110(1) of the Customs Act, 1962, will not attract, as the currencies are 'things' for the purpose of investigating not only Customs Act but also incidental violations of offences under other Acts. Hence, for the seizure of Indian Currency, Section 110 (3) of the Customs Act, 1962, is the correct provision of law to be applied and not sub-section (1) of Section 110. To further make it clear, Sub section (1) will come into play in cases where the 'currency' itself is the subject matter of Customs Act, such as carrying undeclared Currencies by passengers from India to abroad or from abroad to India and the said currencies are seized during transit or in the course of attempt to transit. In the instant case, the currencies were seized during the course of investigation as against the appraiser of the Customs Department who had taken bribe and fraudulently fabricated the documents to claim the advantage of the Scheme. Shri. Mittalal (the father of the respondent herein) had aided the said appraiser in committing an illegal act. The Currencies were seized from the possession of Shri.Mittalal on the reasonable belief that the currencies may be part of Hawala transactions.

20. Further, the investigation so far conducted through examination of persons involved, leads and discloses apart from violations of Customs Act, other Acts like Income Tax Act, Prevention of Corruption Act and Prevention of Money Laundering Act. Therefore, before conclusion of the investigation, this Court, in exercise of power under Article 226 of the Constitution, cannot order release of the crime proceeds. This will pre-conclude and foreclose the investigation of a grave economic offence by ignoring relevant facts and other allied statutes. By misapplying the wrong provision of law, the writ petition filed by the son of Shri.Mittalal been erroneously allowed.

21. Therefore, we set aside the order of the Learned Single Judge. The appellant-Department shall proceed with the investigation to reach its logical end. The appellant/Department is further directed to deposit the currencies seized in interest earning scheme of any Nationalised Bank till the completion of investigation.

23. With the above observations, the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(**Dr**. **G.JAYACHANDRAN**, **J.**) & (**N. MALA, J.**)

10-08-2026

Index :Yes/No.
Neutral Citation :Yes/No.
Internet :Yes.
bsm

Dr. G.JAYACHANDRAN, J.
&
N. MALA, J.
bsm

judgment made in
W.A.No.1855 of 2026

Judgment delivered on
10-08-2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-08-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MRS.JUSTICE N. MALA

WA No. 1855 of 2026
AND
CMP NO. 16706 OF 2026

Principal commissioner of Customs
Customs House, 60,
Rajaji Salai,
Chennai 600001

..Appellant(s)

Vs

Shri Vikram Jain
S/o. Shri Mittalal
Proprietor of M/s. Globe Opticals
No. 2 Ganguraman Street
Ground Floor
Kamdhenu Complex
Sowcarpet, Chennai 003

..Respondent(s)

WA No. 1855 of 2026

To allow the above writ appeal by Setting aside the impugned Order dated 10.12.2025 passed in WP.No.10428 of 2025

WA No. 1855 of 2026

For Appellant(s): Sai Srujan Tayi

For Respondent(s): Vaibhav Rangarajan Venkatesh
Anirudh A Sriram
Akash Srinanda V Counsel For Caveator - Sole

Respt In Wa 1855/2026

Order

(Order of the Court was made by Dr.G.Jayachandran J.)

(1) The case was heard on 15.07.2026 for admission. The respondent has entered caveat and the learned counsel appeared on behalf of the respondent. After hearing both sides, we reserved orders on the same day. Two days later, i.e., on 17.07.2026, it appears that Mr.Vaibhav Natarajan Venkatesh, learned counsel for the respondent, has filed a Memo dated 14.07.2026, stating that no opportunity whatsoever was afforded to the respondent to address this Court and sought for reopening the matter.

(2) We place it on record that this matter was heard by this Court on 15.07.2026, for more than thirty minutes of which substantial time consumed by the learned counsel for the respondent. The content in the Memo as if no opportunity was given to the learned counsel for the respondent, is incorrect and other averments are scandalous. The Memo was produced before this Court by the Registry today, when the matter was called for pronouncing the order. The learned counsel for the

respondent had not mentioned before this Court about the filing of the Memo soon after its filing or any day thereafter and today, none for the respondent present.

(3) We heard both sides on 15.07.2026 and reserved the orders. The Memo dated 14.07.2026, is filed in the Registry on 17.07.2026. The Memo reads as below:-

> *1. The above writ appeal came up for admission before this Court on 15.07.2026. The counsel for the appellant made submissions seeking to persuade this Hon'ble Court at the stage of admission itself. The respondent herein was on caveat.*
>
> *2. It is submitted that at that very juncture, a point was raised only on fats, upon which this Hon'ble Court had exercised its wisdom to reserve the matter for judgment forthwith.*
>
> *3. The respondent respectfully submits that no opportunity whatsoever was afforded to the Respondent to address this Hon'ble Court on the merits of the matter. The legal submissions on behalf of the respondent were, at no point, placed before or heard by this Hon'ble Court before the matter was reserved for judgment.*
>
> *4. It is admitted that the respondent was thus denied a fair and effective hearing and the principles of natural justice, which require that a party be given a reasonable*

opportunity of being heard before an adverse order is passed against it, have not been complied with in the present case.

5. The respondent craves leave of this Hon'ble Court to place the above facts on record through the present Memo, without prejudice to all contentions available to the respondent in law and on facts.

It is therefore humbly prayed that this Hon'ble Court may be pleased to take the present Memo on record and thus render justice.

(4) We reiterate that the content of the Memo is factually incorrect and scandalous.

(G.J.,J.) **(N.M.,J.)**
10-08-2026

AP

DR.G.JAYACHANDRAN J.
AND
N.MALA J.

AP

WA No. 1855 of 2026
AND
CMP NO. 16706 OF 2026

10-08-2026

WA No. 1855 of 2026

To
Shri Vikram Jain
S/o. Shri Mittalal
Proprietor of M/s. Globe Opticals
No. 2 Ganguraman Street
Ground Floor
Kamdhenu Complex
Sowcarpet, Chennai 003