

D J De S Balapatabendi  
The Chairman  
Commission to Investigate Allegations of Bribery and Corruption  
36, Malalasekara Mawatha  
Colombo 7

15<sup>th</sup> Jan 2015

**Complaint on patent abuse of tax-free permits with the collusion of the ST & DGC**

I write further to my [earlier complaint dated 11th Dec 2014](#) sent to you by registered post (copy enclosed) on the above matter. It is disappointed to note that you have failed to acknowledge the receipt of the same or to initiate any action on this 100% accurate information provided on the tax-free car permit abuse, misappropriating hundreds millions of public funds committed with full knowledge and collusion of the Secretary to the Treasury P B Jayasundara and the, then Director General of Customs Neville Gunawardana.

**Abuse of tax-free permit scheme for unjust enrichment**

Originally these tax-free permits were issued under Section 19A of the Customs Ordinance in the 'public interest' under the pretext that the recipients of such permits would import vehicles for both private and official use and the use of it for official purposes would enhance the effectiveness of the performance of the office of the officials concerned. These permits were issued subject to a specific condition that unlawful disposal of these permits or vehicles imported on such permits would amount to violation of the law, permitting the Director General of Customs to confiscate any such vehicles unlawfully disposed of.

**Credible information of the abuse given to Corruption Commission**

On 13<sup>th</sup> November 2012, further to a plausible information received by the Deputy Director of Customs, Mr Athula Lankadeva, a team of Customs Officers raided two influential companies namely LOLC and LB Finance as they had imported a large number (eighty or more) of tax-free cars on such permits misappropriating the total fiscal levy tax element.

Immediately thereafter the then Director General of Customs Neville Gunawardana, who was under duty to enforce the law as required by the Customs Ordinance, purportedly on the orders of Secretary to the Treasury, P B Jayasundara, directed the Mr Lankadeva to abandon the investigation. By then, all the documents concerning the import of such vehicles by the said two companies had been seized by the Customs investigators.

**Informant intervenes and protests against the DGC who was at fault**

The said collusive action by the DGC Neville Gunawardana clearly denied the informant (who provided the accurate information of the abuse of the permit system) of his legitimate share for the cash reward he was entitled to under the Customs Ordinance. In this backdrop the head of the investigating team was under tremendous pressure to do justice to the informant and on the instruction given to

me I sent a [warning letter to the DGC 14<sup>th</sup> Nov 2012](#) notifying him that in the event the law is flouted letting the fraudsters go scot-free, he would be sternly dealt with as required by law.

### **Finance Ministry intervenes to protect the fraudster elements**

However, on the [following day i.e. 15<sup>th</sup> Nov 2012](#), a directive by the Finance Ministry was reached the DGC's office regarding this matter. It was clearly an unlawful directive, as the ST had removed all restrictions imposed on the duty free permits with retrospective effect that is not permitted by law, effectively preventing Customs Officers from enforcing the law against the fraudsters involved.

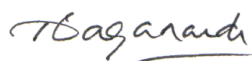
### **Investigation abandoned on the directions of DGC Gunawardana**

As per the said directive the head of the investigation Mr Athula Lankadeva was compelled to shut the fraud inquiry on 19<sup>th</sup> Nov 2012, with the following [remark made on the Treasury Directive](#), to be complied with by his subordinate officers.

*'Please note the content of this letter and the effect that it would have on our cases. The DGC asked me to release all the files already taken over and therefore act accordingly'.*

### **Enforce the law or resign forthwith without wasting time**

Since there is a regime change, at least now I expect you to act as required by law, failing which, you should resign from office forthwith without wasting time by continuing to occupy the office after breaching the trust placed in the Corruption Commission by the people of Sri Lanka.



**Nagananda Kodituwakku**

Attorney-at-Law (Sri Lanka) & Solicitor (UK)

Copies to: 1. Anti-corruption drive, 100/19, Welikadawatte, Rajagiriya,

2. Transparency International (Sri Lanka), 183/5, High Level Road, Colombo 6