

BEFORE THE ADDITIONAL MASTER – III
HIGH COURT MADRAS
C.S. No.79 of 2011

Date :23.01.2026

Time :11.30 A.M

Name : J. Raja Ananthan (DW1)

Continuation of cross Examination by Mr. A.Ganesh, Learned Counsel for the plaintiff.

Solemnly affirmed:

Q118: Is it correct to state that CS.No.79/2011 suit was filed on 31.01.2011 and an injunction was granted on 21.02.2011?

A: Yes.

Q119: Do you know dealing in petroleum products it is governed by the Petroleum Act and Rules?

A: Yes.

Q120: As per the petroleum acts and rules if they intended to examine petroleum products, they appoint a testify officer authorized by the Central Government as per section 17 of the petroleum act. Do you know that?

A: There is no such appointing officer.

Q121: The DRI had sent the sample to a lab. Did you find out whether the said lab is recognized by the Government of India and the testify officer is authorized as per Section 17 of the Petroleum Act?

A: I was not there at the time of taking samples. Witness adds: One of the managers were there at that time.

Q122: You did not file any petition before the Magistrate or before the Additional Director of DRI and protest the examination by DRI by an unauthorized lab to test the sample. Is it correct?

A: I have given a letter to the DRI.

Q123: Have you produced the above said letter before this Hon'ble Court?

A: No. Witness adds: The letter was seized by the DRI at the time of inspection.

Q124: Have you stated about the seize of the letter by the DRI either in your written statement or proof affidavit?

A: No.

Q125: When the DRI had over valued the goods, you did not abandon the goods. You paid the differential customs duty when you were in prison?

A: I have already answered this question. Witness adds: I have paid the differential duty of a sum of Rs.1,27,58,195/- because of my arrest.

Q126: After coming out on bail, you did not abandon the goods and asked for the refund of the customs duty you paid along with the deferential duty of Rs.1,27,58,195/-?

A: Yes. Witness adds: Since I have paid my deferential duty of a sum of Rs.1,27,58,195/- and also paid advance of Rs.78,00,000/- I have not abandoned.

Q127: Have you filed any proof for the said payment of advance of Rs.78,00,000/-?

A: Yes. Witness adds: Receipts had been filed.

Q128: Did you file refund application for refund of duty paid by you viz., Rs.4,86,709/- for the seven containers of fuel oil when you abandoned the goods?

A: No. Witness adds: They are stated that it is Kerosene and for that reason I have not abandoned.

Q129: You did not seek any order from this Hon'ble Court while getting and order in A.No.813/2011 or in A.No.911/2013 for refund of customs duty of Rs.4,86,709/- to which you paid?

A: Yes. Witness adds: The Court had included the above said amount into the account of the exporter since the 7 containers re-exported.

Q130: Do you know that the seven containers are still lying in the customs warehouse as the re-export was not permitted by D2, Commissioner of Customs?

A: The court gave order for re-export. Witness adds: I do not know anything about the continuous process of re-export.

Q131: Because of you abandoning the seven containers of fuel oil the plaintiff had incurred a huge loss of USD 33,644.25. Is it correct?

A: No, it is wrong.

Q132: You said you have sent letters to DRI to direct D5 and D6 to waive the demurrage charges since the delay in clearing was not on your part or the plaintiff's part, if that be so you did not file any application or pray in A.No.813/2011 to waive the demurrage charges of Rs.36,74,308/- and detention charges of Rs.46,20,312/-. Is it correct?

A: Yes. Witness adds: For that I have filed a suit.

Q133: When D5 and D6 demanded for demurrage charges and detention charges you did not abandon the goods, still you were interested in taking the goods?

A: It is wrong. Witness adds: I have intend to taking the goods because of payment of a sum of Rs.1,25,00,000/- as a differential duty and also I have paid a advance amount of Rs.78,00,000/-. They are not detain the goods if it is in the export form otherwise, we have to pay the demurrage and detention charges.

Q134: (Ex.D18 is shown to the witness). Ex.D18 shows Golden Lube and subsequently handwritten Lubecon Petro products and another 4 receipts shows the name is Golden Lube. Is it correct?

A: Yes.

Q135: I put it to you that you have not paid the demuurage charges. That amount paid by the Golden Lube and obtained receipts and now you used those receipts for the purpose

of the this case.

A: I deny. Witness adds: Through my bank account I paid the demurrage charges.

Q136: Is it correct to state that Golden Lube is not belongs to you?

A: Yes.

Q137: You did not produce you PAN card, Income Tax returns, educational certificates, assets in your name before this Hon'ble Court. Is it correct?

A: I have filed PAN card and bank statements. I have not filed other documents.

Q138: (Para.14 of the written statement is shown to the witness). Further you did not produce any income tax returns of your company or yourself to show the turnover of Rs.80,00,00,000/- stated in para.14 of your written statement before this Hon'ble Court.

Is it correct?

A: Yes.

Q139: Do you know customs authorities or DRI authorities can reject the transaction value and redetermine the value as per customs valuation rules?

A: Yes, I know.

Q140: If you contested the said redetermined valuation they will issue a show cause notice to you. Is it correct?

A: Initially, for that reason custom officer arrested me and then issued show cause notice.

Q141: In this case have you produced any show cause notice as such before this Hon'ble Court?

A: No.

Q142: You did not make any prayer before this Hon'ble Court while initially contesting

for vacating the injunction to send the 52 containers samples to be examined by the proper testifier in Indian Oil Corporation or Chennai petroleum corporation Ltd., or Hindustan Petroleum Corporation in order to ascertain whether the consignment is rubber processing oil (RPO) base oil. Is it correct?

A: No. Witness adds: Prior to that before going to Court we have taken the above said process before the DRI and Customs. For that reason I did not ask for anything before the Court.

Q143: Did you contest report submitted by the DRI when you remanded before Additional Chief MM, EO I Court or before this Hon'ble Court to sent the re-analysis in the aforesaid major petroleum company to ascertain the subject consignment whether the subject consignment in RPO or base oil before clearance of the consignment in order to fix the valuation as well as the customs duty?

A: Yes. Witness adds: I also informed the court the arrest is not proper and requested to release me from the custody and for re-analysis.

Q144: When the DRI questioned you did not stated before the DRI that you are not the importer and Redsun is the importer?

A: No. Witness adds: At that time I do not know anything about Redsun company.

Q145: (Ex.D2 to D7 are shown to the witness). Please see the invoice, it has the name of Lubecon and not Redsun. Is it correct?

A: Yes.

Q146: Do you know that you would not have been arrested if you would have given a statement before the DRI that you are not the importer and Redusun is the importer and you have nothing to do with goods?

A: At the time of my arrest, I do not know that there is a company namely Redsun and initially, he import the goods and changed in my company's name. DRI informed me the above said facts.

Q147: Do you know that you were arrested based on your own statement given on 10.12.2010 and 16.12.2010 before the DRI u/s. 108 of the customs act which is

admissible in evidence?

A: At the time of arrest I do not know the above said rule.

Q148: Have you not give any statement before the DRI like that you would not have been arrested?

A: No, it is wrong.

Q149: Is it correct to state that from 10.12.2010 to 16.12.2010 were you detained in DRI office. ?

A: No, it is wrong.

Q150: On 10.12.2010 you gave statement u/s.108 of the customs act before the DRI and after giving the statement you were allowed to go home by the DRI officer. Am I right?

A: Yes.

Q151: After coming home did you send any notice to the plaintiff or email that the oil sent by the plaintiff was not adherence to your order. And there by abandoning the goods you asked them to send a letter for re-export of the consignment?

A: I do not remember.

Q152: Is it correct to state that you did not file any anticipatory bail before this Hon'ble Court or any other court of law?

A: Yes.

Q153: You were arrested on 16.12.2010. Am I right?

A: Yes.

Q154: On production before the magistrate, you did not complain that you have been ill-treated and the DRI officer coerced to give statement. Is it correct?

A: No. I have stated.

Q155: Have you filed the complaint made by you at the time of remand before this

Hon'ble Court?
A: Yes, I have filed a remand petition.

Q156: Do you know that in the customs settlement commission you can contest the valuation of the DRI?

A: Yes, I am aware. I objected that higher value valued by the DRI.

Q157: Whether the value fixed by the DRI is reduced by the customs settlement commission?

A: No. Witness adds: I applied for reduction of value by they denied.

Q158: Is it correct to state that you have not contested the order of customs settlement commission by way of Writ Petition before the Hon'ble High Court in order to reduce the valuation and differential duty?

A: No, there is no chance to file Writ application. I approached the customs settlement commission to avoid the arrest and it is final.

Q159: The settlement commission granted immunity from prosecution and penalty on payment of Rs.1,36,24,502/- vide order dated 24.08.2012. Is it correct?

A: No, it is wrong.

Q160: (Ex.D22 is shown to the witness). This is a counter filed by DRI in a bail application of one Mr.Mohammed Azam as Ex.D22. Is it correct?

A: Yes.

Q161: (Ex.D22 is shown to the witness). In Ex.D22, there is no Court seal or any certification by court. Is it correct?

A: No, it is there in the first and last pages.

Q162: I put it to you that the seal which you have show in Ex.D22 is not a certified copy

seal, the seal has been affixed after you filed this document before this Court, the court has put the seal to mark the document as exhibit and not certified copy.

A: I deny.

Q163: (Ex.D22 is shown to the witness). Is it correct to state that you have not prepared this document and you are not the author of this document?

A: Yes.

Q164: (Ex.D22 is shown to the witness). In the last page of Ex.D22 one Mr.Rajkumar, Senior Intelligence Officer's signature is there. Is it correct?

A: Yes.

Q165: (Ex.D22 is shown to the witness). Is it correct to state that you have not examined the above said Mr.Rajkumar, Senior Intelligence Officer before this Hon'ble court?

A: Yes. Witness adds: He was examined before Settlement Court.

Q166: (Ex.D26 is shown to the witness). In Ex.D26 statement of Mohammed Azam had clearly stated in his statement in Pg.No.7, Para.2.7 stated as "The DRI's case against you in this instant was mis-declaration of "Base Oil" as "Rubber processing oil" and under invoicing the consignment by an amount of nearby (U.S)/MT for a consignment of 1062.61 MT \$700 (U.S) approximately. Please explain? Our company has send 1062.61 MT of "Rubber processing oil" to Ms.Lubecon in 2010 from which many kinds of base oils can be processed by distillation. I feel that DRI has mis-interpreted it as "Base oil". The answer is totally contradicting the counter filed by the DRI. Is it correct?

A: No. Witness adds: In the very same place he stated "base oil" and "rubber processing oil".

Q167: (Ex.D22 is shown to the witness). In Ex.D22 the said Rajkumar had stated that you conspired with the exporter to illicitly import goods by willful misdeclaration, gross under valuation and consequent huge customs duty evasion and also smuggling and as consciously played a material role therein. What do you have to say about that?

A: No, he stated wrongly.

Q168: I put it to you that in order to not pay the transaction value to the plaintiff you brought irrelevant documents to confuse the court.

A: I deny. They are true documents.

Q169: I put it to you that you did not pay the transaction amount of the suit till date, and after 11 years from the date of filing of the written statement you come forward with a new story after filing the written statement.

A: I deny. I have produced the documents i.e., Swift copy of transaction details before this Hon'ble Court.

Q170: I put it to you that in your first written statement you did not state anything about Ex.D1 to D28 because you have cooked up the documents.

A: I deny.

Q171: The consignment arrived in the year 2010 and you filed the bill of entry on 13.11.2010, 18.11.2010 and 21.11.2010. Am I right?

A: Yes.

Time: 01.20 P.M

Continuation Time: 02.35 P.M

Solemnly affirmed:

Q172: On 25.11.2010 and 29.11.2010 DRI drew samples from the consignment. Am I right?

A: Yes.

Q173: The DRI summoned you on 10.12.2010 and on 16.12.2010 and you were arrested on 16.12.2010. Am I right?

A: Yes.

Q174: On 31.01.2011 the plaintiff filed this Civil Suit. On 02.02.2011 the plaintiff obtained injunction against you and others. Am I right?
A: Yes.

Q175: On 14.02.2011 you entered appearance in this suit and volunteered to furnish security for the suit claim and prayed for vacating the interim injunction and thereby on 17.02.2011 this Hon'ble Court on furnishing of security of the suit claim, directed the customs authority and steamer agent to release the goods in favour of you after complying with the statutory formalities. Am I right?

A: No. Witness adds: The advance amount of Rs.78,00,000/- with the plaintiff. I have furnished security for the balance amount of Rs.50,00,000/- and then they released the materials.

Q176: I put it to you that you have given a security for the entire suit claim not as stated Rs.50,00,000/- alone.

A: I deny.

Q177: Is it correct to state that based on that order you took delivery of the consignment of 52 containers?

A: Yes.

Q178: (Ex.D23 is shown to the witness). Ex.D23 dated 12.10.2011 of Tamil Nadu Mercantile Bank Ltd., shows that a transaction advice to pay USD 98,138.60 to AL Zahara Petro chemical as claimed by you. Am I right?

A: Yes.

Q179: (Written statement is shown to the witness). You have filed the written statement on 29.08.2011. In para 10 you have stated that you do not owe a sum of USA 1,37,99,860/- nor a sum of USD 3,01,044.071/- and in the same para you have stated that the plaintiff is not legal or equitable owner of the goods. Am I right?

A: Yes.

Q180: While this is so you ought not to have remitted 98,138.60 USD on 12.10.2011. Is it correct?

A: As per court order I have paid the above said amount.

Q181: If you would have made such a payment you would have made the payment before this Hon'ble Court and released the security for the suit claim deposited before this Hon'ble Court. Am I right?

A: Court directed to repay the balance amount to the party who received the advance payment.

Q182: I put it to you that the Court did not pass any order directing you to remit 98,138.60 USD in the account of the plaintiff.

A: I deny. Witness adds: The above said details mentioned in the Court order.

Q183: I put it to you that there is no running account in international trade, and you are lying before this Court.

A: I deny. Witness adds: I have paid the amount through proforma invoice.

Q184: You did not stated in your written statement dated 28.08.2011 about the running account with the plaintiff. Am I right?

A: I deny. I have stated.

Q185: I put it to you that you have come forward with a new story of running account after 10 years of filing of the 1st written statement.

A: I deny. Witness adds: I have stated before Hon'ble Court.

Q186: I put it to you that you are liable to pay the transaction value of the amount to the plaintiff along with interest.

A: I deny. Witness adds: I have already paid the entire amount properly through bank.

Q187: I put it to you that even if you pay the amount still you are liable pay the suit amount except 7 containers of fuel oil.

A: I deny. I have paid. Witness adds: I have spent more money for demurrage, detention, differential duty nearly Rs.2 Crores.

Q188: I put it to you that you have taken the 52 containers and sold the same for more than Rs.12 Crores in order to avoid the suit money you falsely stated that you have incurred so much money and filed a counter claim falsely that is why you are not showing the bills for the sale of 52 containers.

A: I deny. Witness adds: At the time of getting injunction the plaintiff claimed the above said amount. The remaining amount claimed by the plaintiff is false.

Q189: Have you sent any letter to the plaintiff stating the I have abandoned the goods and you refund a sum of Rs.78,00,000/- in advance?

A: There is no way for that as per customs rules.

Q190: I put it to you that you were arrested on your own statement and DRI did not arrest you falsely and thereby there is no mental agony or torcher and you simply not to pay the suit amount, you are making a false claim.

A: I deny. Witness adds: The exporter sent the wrong materials and for that reason initially I was arrested and then plaintiff was also arrested for his wrong.

Q191: I put it to you that because of your statement the Director of the plaintiff was arrested.

A: I deny. Witness adds: The plaintiff was involved in 5 cases similar such type of this

case. Hence he was arrested.

Q192: Have you produced any documents before this Hon'ble Court that the plaintiff was involved in 5 cases similar such type of this case?

A: Yes. Witness adds: I have produced the documents in the name of Redsun, Golden Lubes.

Q193: (Ex.D18 is shown to the witness). Whether the "Golden Lube" mentioned in Ex.D18 is plaintiff's company?

A: No. Witness adds: They loaded the materials as per first invoice for the company Golden Lubes. Thereafter, they transferred the materials to my company and forged our seal and my signature. The person who prepared the seal and signature in clearing and forwarding company CHA was also arrested in this case.

Q194: I put it to you that you did not stated anything in your written statement or proof affidavit as whatever stated in your answer to Q.No.193.

A: I deny. Witness adds: I have stated and I have records relating to it.

Q195: I put it to you that the demurrage charges was paid by Golden Lubes as per Ex.D18 and not by your company and you are falsely claiming that your company had paid the amount.

A: I deny. Witness adds: Bill of entry and bills are changed in my company name from Golden Lubes then I file the bill of entry in the customs office. And then DRI interfered and also called for enquiry and connected proceedings were taken.

Q196: I put it to you that as per Ex.D12 the bill of entry was filed on 18.11.2010 and as per Ex.D18 the demurrage charges paid on 04.02.2011 to 16.03.2011 and therefore, the answer what you have stated in Q.No.195 is false.

A: I deny. Witness adds: Whatever I stated is correct.

Q197: I put it to you that in Ex.D15 you have stated no complaints of ill treatment and he wrote the 3rd page of the statement as dictated by one of the four officers and thereby you have accepted the other two pages.

A: I deny. Witness adds: I denied the entire statement at the time of my remand.

Q198: I put it to you that in your own statement you have accepted that after placing the order with the plaintiff, the plaintiff had sent the consignment to you and now you are creating a false theory and story before this Court to escape from the payment of claim.

A: I deny. Witness adds: If I imported the materials they were all might have been sent to be directly and not through Golden Lubes.

Q199: Have you filed any document to prove that this consignment was meant for Golden Lubes and not for my company?

A: Yes, I have filed it.

Q200: I put it to you that after 10 years from the date of filing the first written statement you created the documents and filed it before this Hon'ble Court.

A: I deny. Witness adds: All the documents filed in DRI and the Court.

Time: 03.40 P.M

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-III