CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 51041 OF 2025

[Arising out of the Order No. 04/Tech/MOOWR/JMS/Pathakhera/2025-26 dated 17/06/2025 passed by the Commissioner of Customs, Indore]

M/s JMS Mining Pvt. Ltd. **......Appellant**
Dongfang Electric Building,
3rd Floor, Action Area, Newtown
Kolkata, West Bengal 700 156

Versus

Principal Commissioner of Customs, Indore **....Respondent**
3rd Floor, B-Zone, Business Space
Pipaliya Kumar Nipania
Indore 452 010

With

CUSTOMS APPEAL NO. 51042 OF 2025

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3rd Floor, B-Zone, Business Space
Pipaliya Kumar Nipania
Indore, 452 010

APPEARANCE:

Shri B.L. Narasimhan, Ms. Nupur Maheshwari, Shri Dhruv Matta, Shri Shobhit Jain and Shri Ashish Modgil, Advocates for the appellant.

Shri Nikhil Mohan Goyal and Shri Ranjan Prakash, Authorized Representatives for the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO'S. 50005-50006 /2026

DATE OF HEARING : 06.11.2025
DATE OF DECISION: 06.01.2026

P. V. SUBBA RAO

M/s. JMS Mining Pvt. Ltd.[1] filed these two appeals to assail the orders passed by the Principal Commissioner of Customs, Indore cancelling under section 58B of the Customs Act, 1962[2] two private bonded warehouse licences and permission under Manufacture and Other operations in Warehouse (No.2) Regulations, 2019[3] issued to the appellant at two locations. The details are as follows:

Order No. And Date	CANCELLATION ORDER No. 04/Tech/MOOWR/JMS/Pathakhera/2025-26 DATED 17.06.2025	CANCELLATION ORDER No. 03/Tech/MOOWR/JMS/Churcha/2025-26 DATED 17.06.2025
Relevant Period	04.10.2021 – 17.06.2025	31.01.2024 – 17.06.2025
Location of MOOWR Unit	Chhatarpur Mine No. 1, Chhatarpur Sub Area, Pathakhera Area, Madhya Pradesh – 460 449.	Churcha RO underground Mine, Shivpur Block, Baikunthpur Area, Churcha, Chhattisgarh – 497 339.
Details of MOOWR Application	Application No. 263489041021BM dated 04.10.2021 was filed by the Appellant for grant of permission for Chhatarpur mines at Pathakhera to be operated as a MOOWR Unit in terms of Section 58 and 65 of the Customs Act. The license was granted to Appellant after proper scrutiny of all the documents and physical verification.	Application No. 359197071122BM dated 07.11.2022 was filed by the Appellant for the grant of permission for Churcha Mines at Baikunthpur to be operated as a MOOWR Unit in terms of Section 58 and 65 of the Customs Act. The said application was denied upon due physical verification for the reason that the area mentioned in the application did not match with the area identified during inspection Appellant corrected its mistake and filed a second MOOWR Application bearing No. 389226101123BM dated 10.11.2023.
Details of the MOOWR License	1. License No. 01/Pr BWh/JMS Mining/Ind-Cus/2022-23 dated 01.06.2022. 2. Warehouse Code No.: IND6R011	1. License No. 05/Pr BWh/ JMS Mining/Ind-Cus/2023-24, Indore dated 31.01.2024. 2. Warehouse Code No.: IND6R025

1. the appellant
2. the Act
3 MOOWR, 2019

Issue	Cancellation of MOOWR License under Section 58B of the Act

2. If goods are imported into India, the importer has to file a Bill of Entry under section 46 of the Act, self-assess duty under section 17 which may be re-assessed by the proper officer and then the importer has to pay applicable duty after which the proper officer issues an order permitting their clearance for home consumption under section 47 of the Act. Until the goods are cleared, they must be kept in the 'Customs area', i.e., that **area of a customs station or a warehouse** and includes any area **in which imported goods** or exported goods **are ordinarily kept before clearance by Customs Authorities** [section 2(11) of the Act]. '**Imported goods'** means any goods brought into India from a place outside India but **does not include goods which have been cleared for home consumption** [section 2(25) of the Act].

3. If the importer does not want to pay the duty immediately, instead of filing a Bill of Entry for home consumption, he can file a Bill of Entry for warehousing and shift the imported goods to custom bonded warehouse and clear them later by filing an ex-bond Bill of Entry and paying appropriate duty. Thus, the importer can defer paying the customs duty until the time he actually wants to clear the goods for home consumption. While the goods are in the Custom bonded warehouse, goods can be sold and bought and if that happens the person who finally wants to clear the goods for home consumption will have to pay the duty.

4. There are two types of Custom bonded warehouses- (a) Public Bonded warehouses licenced by the Commissioner under section 57 of the Act in which imported goods of any person can be kept; and (b) Private Bonded

warehouses licenced by the Commissioner under section 58 of the Act in which imported goods of the licencee can be kept.

5. Section 58B empowers the Commissioner to cancel either the Public Bonded warehouse licence issued under section 57 of the Act or private bonded warehouse licence issued under section 58 of the Act if the licensee contravenes any of the provisions of the Act or the rules or regulations made thereunder or breaches any of the conditions of the licence.

6. Section 65 of the Act stipulates the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods with the permission of the Commissioner. MOOWR, 2019 regulate such operations. As per MOOWR, 2019, one may apply for permission to the Commissioner under Regulation 4 and the Commissioner may grant permission under Regulation 5 which shall, as per Regulation 6 remain valid unless it is cancelled or surrendered, or the license issued under section 58 is cancelled or surrendered, in terms of the provisions of the Act or the rules and regulations made thereunder.

7. After manufacture or carrying out other operations, the goods so manufactured can, as per Regulation 14 of MOOWR 2019, be removed for home consumption after filing a Bill of Entry for Home Consumption for so much of the imported goods as are contained in the goods manufactured.

8. In this case, the appellant was given contracts to carry out mining operations in Chhatarpur mines at Pathakhera by Western Coalfields Limited[4] and in Churcha Mine by the Southern Coalfield Limited[5]. The appellant applied for Private Bonded Warehouse Licences for both these

4. WCL
5. SCL

mines. The appellant also sought licences under MOOWR, 2019 and was granted Private Bonded licences under section 58 of the Act along with MOOWR licences on 1.6.2022 (Chattarpur mines) and on 31.1.2024 (Churcha mines). The appellant imported mining equipment and took them to these two private bonded warehouses and has been using them to mine coal in the two mines. Admittedly, the appellant does not own the mines and it has been carrying out the mining as a contractor for WCL and SCL.

9. On 24.04.2025, the Principal Commissioner issued Cancellation Notices under section 58B of the Act and issued orders cancelling the licences on 17.6.2025, which orders are impugned in these appeals.

10. The Impugned orders have been passed cancelling the licenses under Section 58B of the Customs Act on the following grounds:

a. the appellant has not satisfied the definition of "Private Warehouse" as given in Private Warehouse Licensing Regulations, 2016.

b. the appellant does not own the premises, has no access control over the premises and capability to provide secure storage of the imported goods Regulation 8 of the MOOWR, 2019.

c. The area of the MOOWR, 2019 Unit is too vast to ensure general supervision by the Customs officers.

d. The operations undertaken by the appellant is a service which is not permissible under the MOOWR Scheme.

e. The resultant goods need to be capable of removal for home consumption or export in terms of Regulation 15 of the MOOWR Regulations, 2019. The submission of the appellant that there is no mandatory requirement of clearance of the resultant product, either for home consumption or for export, is also not acceptable as this undermines the spirit of the MOOWR Scheme.

Submissions of the appellant

11. Learned counsel for the appellant made the following submissions:

(i) Mining of coal is not excluded from the scope of the expression "any manufacturing process or other operations" in terms of the proviso to section 65(1) of the Act read with Notification no. 86/2024-cus dated 16.12.2024. Services are not excluded from either MOOWR, 2019 or from section 65A of the Act.

(ii) As per the proviso to Section 65(1) of the Act, the Central Government may, by notification, specify the manufacturing processes and other operations in relation to a class of goods that shall not be permitted in a warehouse. Neither mining nor services have been notified under this section.

(iii) The Central Government has issued only Notification No. 86/2024-Customs (N.T.) dated 16.12.2024 under section 65(1) of the Act as per which, only "***goods imported for solar power generation projects which supply electricity***" have been excluded and are not permitted to be undertaken in a MOOWR Unit. Further, the Explanation provided thereunder also clarifies that the restriction is applicable only when electricity is resulting from the manufacturing process and other operation undertaken in relation to the warehoused good(s) under Section 65 of the Customs Act.

(iv) The Principal Commissioner placed reliance placed on Instruction No. 13/2022 which has been quashed by the Delhi High Court in **Acme**

Heergarh Powertech Pvt. Ltd. vs Central Board of Indirect Taxes and Customs[6].

(v) The statutory provisions nowhere mandate for the licensee to own the premises where the manufacture or other processes are undertaken.

(vi) The impugned order has been passed merely on the assumption that the large area of the mines would be unfeasible for the appellant to secure and for the customs officers to examine. Cancellation of MOOWR license on this basis is not valid in law.

(vii) Section 58B of the Act is not applicable in the present case as there is no contravention of provisions of the Act and the relevant rules and regulations made thereunder nor any condition of the license has been breached by the appellant.

(viii) In view of the above submissions, both the impugned orders cancelling the licenses of the appellant may be set aside and the appellant must be allowed to operate under MOOWR Scheme.

Submissions of the Revenue

12. Learned authorised representative for the Revenue vehemently supported the impugned orders and submitted as follows:

(i) The mining area was spread over several square kilometres and 'general supervision by officers of customs' over such vast area as required under Regulation 3(2) (e) (ii) of the Private Warehouse Licensing Regulations, 2016 is impossible.

(ii) The site lacks defined secure structure of a warehouse making it impossible to have 'secure storage of dutiable goods' as required

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under Regulation 3(2) (e) (i) of the Private Warehouse Licensing Regulations, 2016.

(iii) The premises were owned by WCL and SCL and the security arrangements are shared between the appellant and these two companies which makes it impossible to isolate and secure the imported goods.

(iv) The appellant was providing 'Mining support Service' and it was not manufacturing any goods for itself.

(v) The MOOWR licence can be issued for manufacture of goods and not for providing services.

(vi) The MOOWR scheme envisages clearance of the resultant product and in this case, there is no product at all because only service was provided.

(vii) Even if the coal is considered the resultant product, the appellant has no right to clear it for home consumption or for export since it was merely a contractor for extraction of coal.

(viii) The appellant has no ownership or control over the premises.

(ix) The intention of the MOOWR scheme is to encourage manufacture and make India an attractive investment destination.

(x) The impugned orders are correct and proper and call for no interreference.

(xi) Both appeals may be dismissed.

Findings

13. We have considered the submissions advanced by both sides and perused the records.

14. Section 58 empowers the Commissioner to issue a licence for private bonded warehouse in which the goods imported by the licencee can be kept. This section does not require the premises to be owned by the licencee and therefore, the ownership of the land or premises is irrelevant.

15. Section 58B provides for cancellation of the licence if the licencee contravenes any of the provisions of this Act or the rules or breaches any condition of licence. It does not empower the Commissioner to review his own decision to issue the licence and cancel it. Unless the licencee contravenes the Act or Rules or any condition of the licence, the Commissioner has no power under Section 58B to cancel the licence. Section 58B reads as follows:

> **"Section 58B. Cancellation of licence. -**
> (1) **Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel** the licence granted under section 57 or section 58 or section 58A:
> **Provided** that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.
>
> (2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).
>
> (3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:
> **Provided** that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.
>
> (4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export:
> **Provided** that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period."

16. Section 58B was inserted in Finance Act, 2016, by splitting the erstwhile section 58 into Sections 58, 58A and 58B, of which 58B deals with cancellation of licences. Before 2016, the provision for cancellation of licence was Section 58(2). It read as follows:

> **"58. Licensing of private warehouses.** -
>
> (1) At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.
>
> (2) **The Assistant Commissioner of Customs or Deputy Commissioner of Customs may cancel a licence** granted under sub-section (1) -
>
> **(a) by giving one month's notice in writing to the licensee**; or
>
> (b)**if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence** :
>
> Provided that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.
>
> (3) Pending an enquiry whether a licence granted under sub -section (1) should be cancelled under clause (b) of sub -section (2), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may suspend the licence."

17. Insofar as cancellation of licences is concerned, the two important legislative changes brought in by Finance Act 2016 are:

(a) the power to cancel the licence which was earlier with the Assistant Commissioner or Deputy Commissioner has been vested in the Commissioner; and

(b) the power to cancel a licence with one month's notice has been taken away and the licence once issued, can be cancelled only in case of violation of Act or Rules or conditions of the licence.

18. **Therefore, from the year 2016, a private bonded licence once issued, cannot be cancelled unless there is a contravention of the Act**

or Rules or conditions of licence by the licensee. If the Commissioner issues a licence under section 58 and thereafter feels that he had wrongly issued it, he cannot cancel the licence. In this case, it is not in dispute that the Commissioner had issued Private Bonded Warehouse licences to the two mines and there is no allegation of any violation of Act or Rules or the conditions of licence by the appellant. Therefore, the Commissioner cannot cancel the licence under section 58B since this power was specifically withdrawn by the Parliament in Finance Act, 2016.

19. Some other changes were also brought in through Finance Act, 2016. Before 2016, Capital goods for 100% Export Oriented Units[7] could be kept in the warehouse for five years, other capital goods could be kept in the warehouse for three years and all other goods could be kept in the warehouse for one year with provision for extension of time. In 2016, Section 61 of the Act was substituted and Capital Goods for 100% EOUs and goods in any warehouse, where MOOWR licences are issued under section 65 can now be retained in the warehouse till their clearance and other goods imported by 100% EOUS and goods in warehouses where MOOWR licences have been issued can be retained till their consumption or clearance and all other goods for one year. Section 61 before and after 2016 reads as follows:

Before 2016

> **"61. Period for which goods may remain warehoused**.-(1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed,-
>
> (a) in the case of **capital goods intended for use in any hundred per cent. Export oriented undertaking**, till the expiry of **five years**;
>
> (aa) in the case of goods **other than capital goods intended for use in**

7 EOU

any hundred per cent. export-oriented undertaking, till the expiry of **three years**; and

(b) in the case of **any other goods, till the expiry of one year**, after the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse:

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After 2016

Section 61. Period for which goods may remain warehoused.
(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed, -

(a) in the case of **capital goods intended for use in any hundred per cent export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65**, **till their clearance from the warehouse**;

(b) in the case of goods **other than capital goods** intended for **use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65**, **till their consumption or clearance** from the warehouse; and

(c) in the case of **any other goods**, till the expiry of **one year** from the date on which the proper officer has made an order under sub-section (1) of section 60:
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20. What needs to be noted is that the amended section 61 treats warehouses where MOOWR licences are issued differently from the other custom bonded warehouses. It does not stipulate that the permission to warehouse capital goods until they are cleared and other goods until they are consumed or cleared will be confined to only certain types of capital goods or other goods indicated in the MOOWR licence.

21. There is also no restriction on what types of goods can be warehoused in a warehouse with MOOWR licence or any other warehouse. All that is required is a Bill of Entry for Warehousing must be filed and a Warehousing bond must be executed as per section 59 of the Act and the officer would

permit transfer of the imported goods into the warehouse under section 60 of the Act.

MOOWR, 2019

22. These Regulations were notified in 2019 to deal with permission to carry out Manufacture and Other operations in the warehouse under section 65. They apply to units that operate under section 65 of the Act or to the units applying for permission to operate under section 65 of the Act (Regulation 3). Any person who has been granted a private bonded warehouse licence can apply to the Commissioner for permission to carry out operations under section 65. Any person can also apply to the Commissioner for a private bonded warehouse licence along with permission to carry out operations under Section 65.

23. Upon due verification of the application made as per regulation 4, the Principal Commissioner of **Customs or Commissioner of Customs, as the case may be, shall** grant permission to operate under the provisions of these regulations (Regulation 5) and it shall remain valid unless it is cancelled or surrendered, or the license issued under section 58 is cancelled or surrendered, in terms of the provisions of the Act or the rules and regulations made thereunder (Regulation 6).

24. Thus, not only the private bonded warehouse licence but even the permission to carry out Manufacture and other operations under section 65 shall remain valid without limit unless surrendered or cancelled under section 58B of the Act. So, the Commissioner may issue a private bonded warehouse licence under section 58 and shall, if applied for, permit manufacture and other operations under section 65. However, he has no right to cancel the permission to carry out operations under section 65. He

cannot also cancel the licence issued under section 58 except under section 58B for violation of Act or Rules or breach of conditions of licence. It is not open under the Act and the MOOWR Regulations to the Commissioner to review his or his predecessor's decision to grant a private bonded licence or to permit operations under section 65. The discretion to cancel private bonded warehouse licence after giving a month's notice was specifically withdrawn by Finance Act, 2016.

25. MOOWR Regulations also do not give the Commissioner the discretion to stipulate which goods can be imported for the operations. A comparison of Regulation 5 of MOOWR 2019 and Regulation 5 of the erstwhile MOOWR 1966 will make this position very clear.

> **"Regulation 5 of MOOWR 2019**
>
> **Regulation 5. Grant of permission. -**
> Upon due verification of the application made as per regulation 4, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall grant permission to operate under the provisions of these regulations.
>
> **Regulation 5 of MOOWR 1966**
>
> **5. Grant of sanction**.— On execution of the bond, in the manner hereinbefore provided, the Assistant Commissioner of Customs or Deputy Commissioner of Customs **shall accord sanction to the applicant to carry on such manufacturing process or other operations specifying**:
> (a) the **manufacturing process or other operations permitted** to be carried on in the warehouse;
> (b) the **types and nature of imported and other goods permitted** to be used;
> (c) the **period for which the sanction is valid**; and
> (d) the **conditions, if any, subject to which the manufacturing process or other operations may be carried on in the warehouse**;
> (e) the **input-output norms,** wherever considered necessary, for the raw-materials and the finished goods."

Scope of the MOOWR, 2019 Regulations

26. Regulation 3 specifies that the MOOWR 2019 shall apply to such units that operate under section 65 of the Act or to the units applying for permission to operate under section 65 of the Act. The scope of the expression 'manufacture and other operations' is not defined in the Regulations. Section 65 reads as follows:

> **"Section 65. Manufacture and other operations in relation to goods in a warehouse.**
> (1) [1]With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to the provisions of section 65A and such conditions as may be prescribed, **the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.**
> (2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1), there is any waste or refuse, the following provisions shall apply: -
>> (a) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported :
>> **Provided** that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;
>> (b) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption."

27. Neither section 65 nor any other section of the Customs Act defines 'manufacture' or 'operations'. These words should, therefore, be interpreted in their natural sense- manufacture being producing goods from inputs and operations being other operations which are broadly in the same category. We do not agree with the finding in the impugned order that the mining operations carried out by the appellant do not fall within the scope of 'manufacture and other operations'. **Mining of coal carried out by the**

appellant qualifies, in our opinion, as 'other operations' which can be permitted under section 65.

28. We also find from the chronology of events that the licence was issued to the appellant after a lot of correspondence and after physical verification of the premises. The Commissioner had, apparently applied his mind when issuing a licence under section 58 of the Act permitting operations under section 65 and under MOOWR, 2019. It is not open to the Commissioner to review his own or his predecessor's decision to grant permission under MOOWR, 2019 and to grant a private bonded licence under section 58 of the Act. Neither the MOOWR, 2019 Regulations nor the Customs Act confers any such power on the Commissioner. **Section 58B can be invoked to cancel the private bonded warehouse licence only if there is violation of the Act or Rules or conditions of the licence and it is not the case of the Revenue that the appellant had violated any provisions of the Act or Rules or the conditions of the licence.**

29. To sum up:

i) After the amendments made by Finance Act, 2016, the Commissioner has the power to grant a licence for private bonded warehouse under section 58 which will be valid until it is cancelled.

ii) The licence under section 58 can be cancelled invoking section 58B only if the licencee violates any provision of Act or Rules or conditions of the licence. The Commissioner cannot review his own decision or the decision of his predecessor to grant the licence and cancel it.

iii) The provisions of MOOWR 2019 permit not only 'manufacture' but also 'and other operations' and this expression, does not exclude any service. In view of the expression 'shall grant permission' in Regulation

5 of MOOWR 2019, the Commissioner has no choice but to grant permission, once he finds that the licencee of the private bonded warehouse has fulfilled the conditions and its operations are covered by 'manufacturing and other operations'. In our considered view, 'other operations' include 'mining'. At any rate, once a licence is issued by the Commissioner for the mining operation, the MOOWR 2019 do not empower him to review his own decision and withdraw the permission granted under Regulation 5.

iv) If Revenue is of the opinion that the decision of the Commissioner to issue a licence under Section 58 of the Act or grant permission under MOOWR 2019, is not correct a remedy is available to the Revenue under section 129 D to review 'any decision or order' and file an appeal before this Tribunal.

v) There is no restriction on what types of goods can be warehoused in the private bonded warehouse. Any imported goods can be warehoused and if the licencee also has permission under MOOWR 2019, capital goods can be kept in the warehouse until they are cleared. They can be used within the private bonded warehouse for their entire useful life without clearing them and without paying any customs duty.

vi) In a private bonded warehouse with permission under MOOWR, 2019, goods other than capital goods can be retained until they are cleared or consumed. Even if they are consumed within the warehouse, no duty has to be paid. Duty has to be paid only on such portion of the other goods which are contained in the final goods manufactured within the warehouse and cleared for home consumption. Bill of

Entry has to be filed only for such quantity of the imported goods which are contained in final goods and duty should be paid.

vii) If the imported goods are consumed within the warehouse licenced under section 58 with permission under MOOWR 2019 and they are not contained in any of the goods which are manufactured and cleared from the warehouse, no duty needs to be paid. For instance, if the licencee imports food and drinks or other goods into the warehouse and these are consumed within the warehouse, they will not become part of the goods manufactured and cleared from the warehouse. No duty needs to be paid.

viii) Unlike it's predecessor MOOWR 1966, MOOWR, 2019 do not restrict either the operations or the goods which can be imported into the warehouse and used in them. Unlike in Special Economic Zones, the operations need not be authorised and the goods manufactured therein are not subjected to import duty (import duty has to be paid by filing a Bill of Entry only on the quantity of the imported inputs which are contained in the goods which are manufactured and cleared). Unlike in Export Promotion Capital Goods Scheme, there is no obligation whatsoever to export goods manufactured using the capital goods. Unlike in other export promotion schemes in MOOWR, 2019 there is no export obligation against any goods, whatsoever, which may be imported and used or consumed within the warehouse. One may, for instance, decide to import food and beverages (chocolates, alcohol, soft drinks, etc.) duty free for consumption by the staff engaged in manufacture or other operations within the warehouse. Since they will not be contained in the manufactured good which are cleared from the warehouse, no duty ever needs to be paid.

ix) **So, in essence, a warehouse licenced under section 58 with permission under MOOWR 2019 is like a private duty-free area which, once licensed, cannot be cancelled by the Commissioner. If the capital goods are imported and transferred to the warehouse, they can continue to be in the warehouse until they are cleared and they can be used within the warehouse. They can be used for their entire life, without paying any customs duty and duty has to be paid only if they are removed from the warehouse. If goods which are inputs for manufacture or other operations are imported duty free, they can be used to manufacture final products and when such final products are cleared from the warehouse, duty has to be paid on such quantity of the imported inputs as are contained in the final products. There is no restriction on bringing domestically manufactured goods for use as inputs.**

x) **Anybody can apply for a private bonded warehouse licence for his entire factory, apply for a MOOWR permission and import the entire plant and machinery and instead of paying duty, keep it in the warehouse and use it for the entire productive life of the machinery. If the Commissioner of Customs issues the private bonded warehouse licence once, he cannot cancel it unless the licensee violates any provisions of Act or Rules or any conditions of licence. One can continue to import more capital goods, inputs or any other goods and likewise warehouse them and use them within the warehouse. Duty has to be paid only on such part of the imported inputs which are contained in the manufactured goods which are cleared from**

the warehouse. If any other goods are imported and stored in the warehouse and then consumed, no duty needs to be paid.

xi) **The impugned order cancelling the private bonded warehouse licence of the appellant and the permission under MOOWR 2019 is without authority of law.**

30. In view of the above, we find that both the impugned orders cannot be sustained. The impugned orders are set aside and both the appeals are allowed with consequential relief to the appellant.

[Order pronounced in open court on **06/01/2026**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

Tejo