

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 85943 of 2026

(Arising out of Order-in-Original F. No. GEN/1374/2026-CCSP-O/O COMMR-CUS-GEN-NHAVA SHEVA dated 05.05.2026 passed by the Commissioner of Customs (General), CCSP Section, JNCH, Nhava Sheva.)

International Cargo Terminal Private Limited **Appellant**
Village Koproli, Taluka Uran
District Raigad, Maharashtra – 410 206.

Versus

Commissioner of Customs (General) **Respondent**
CCSP Section, Jawaharlal Nehru Customs House (JNCH),
Nhava Sheva, Taluka Uran,
District Raigad, Maharashtra – 400 707.

WITH

Customs Appeal No. 85820 of 2026

(Arising out of Order-in-Original No. DIN20260478NU0000318438 dated 13.04.2026 passed by the Commissioner of Customs (General), CCSP Section, JNCH, Nhava Sheva.)

International Cargo Terminal Private Limited **Appellant**
Village Koproli, Taluka Uran
District Raigad, Maharashtra – 410 206.

Versus

Commissioner of Customs (General) **Respondent**
CCSP Section, Jawaharlal Nehru Customs House (JNCH),
Nhava Sheva, Taluka Uran,
District Raigad, Maharashtra – 400 707.

Appearance:

Dr. Sujay Kantawala, Ms. Aishwarya Kantawala, Advocates along with Shri Manoj Das, Consultant for the Appellant

Shri P.R.V. Ramanan, Special Counsel for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85721-85722/2026

Date of Hearing: 12.05.2026

Date of Decision: 08.06.2026

PER : Bench

This appeal BEING No. 85943 of 2026 has been filed by M/s International Cargo Terminal Private Limited, Village Koproli (herein after referred to as 'appellant', for short), who are operating Container Freight Station (CFS), for short known as "ICTPL/Globicon CFS", at Nhava Sheva, being aggrieved against the Order-in-Original No. GEN/1374/2026-CCSP-O/O COMMR-CUS-GEN-NHAVA SHEVA dated 05.05.2026 (herein after referred to as 'impugned order') passed by the Commissioner of Customs (General), CCSP Section, Jawaharlal Nehru Custom House (JNCH), Nhava Sheva. The appeal No. 85820 of 2026 has been filed against order dated 13.04.2026 for immediate suspension of the appellant CFS for forwarding as a Custom Cargo Service Provider (CCSP). Subsequently, post-decisional hearing had been given on 16.04.2026 and 04.05.2026, and order dated 05.05.2026 has been passed by the learned Commissioner of Customs, and thus earlier order of 13.04.2026 has merged with the order dated 05.05.2026. Therefore, the appeal No. C/85820/2026 has become infructuous and accordingly it is dismissed and disposed of.

2.1 Briefly stated, the facts of the case are that the appellants herein was appointed as a 'custodian' of ICTPL/Globicon CFS under Section 45(1) and 141(2) of the Customs Act, 1962 and also as a Customs Cargo Service Provider (CCSP) duly approved by the Commissioner of Customs (General), JNCH, Nhava Sheva under Regulation 10 of Handling of Cargo in Customs Areas Regulations (HCCAR), 2019 vide Notification No.12/2016 dated 23.12.2016. The CCSP license for the appellants was renewed from time to time by the Commissioner of Customs (General), JNCH and the latest approval as a CCSP was issued by Public Notice No.67/2023 dated 08.08.2023.

2.2 Investigation conducted by the Directorate of Revenue Intelligence, Mumbai Zonal Unit, Mumbai (DRI) indicated that in two consignments declared to contain "CMS Granules" and "Gypsum Plaster" vide Container Nos. INKU2208675 and ONEU6262323 respectively, imported through JNCH port, ICTPL/Globicon CFS were actually found to be an attempt for smuggling of Chinese Origin "Fireworks/ Firecrackers" and those goods were restricted for import into India. Further, one another container No. TGHU6099161 covered under Bill of Lading No. JSSONSA2603010 dated 18.03.2026, carrying a imported goods declared to be "household goods"

had earlier arrived at ICTPL/Globicon CFS on 09.04.2026, and the same is also containing "Fireworks/ Firecrackers" which is being attempted for unauthorised removal from the customs area i.e., ICTPL/Globicon CFS by certain group of persons operating as a smuggling syndicate. Therefore, DRI officers had sent an e-mail communication at 19:44 Hrs. on 11.04.2026 to the ICTPL/Globicon CFS followed by a telephonic intimation at 19:45 Hrs. to the concerned CFS official, stating that the said container should be kept in hold and DRI officers were going to the ICTPL/Globicon CFS for securing the aforesaid imported cargo. While the DRI officers were on their way away, they had received a call from the CFS official at 20:14 Hrs. stating that the imported goods referred to by DRI in container No. TGHU6099161 are being unauthorisedly removed from it, inside the ICTPL/Globicon CFS. By the time DRI officers reached the said ICTPL/Globicon CFS, they found that 90% of the cargo in the suspect container were offloaded and the same was stuffed inside the truck bearing registration No. MH 04 KU 3433. The said goods were seized on 11.04.2026 and detailed physical verification was conducted on 12.04.2026, which revealed that the goods attempted to remove were actually "Fireworks/ Firecrackers" of Chinese Origin, the import of which is restricted.

2.3 On the basis of preliminary investigation conducted by DRI, it was indicated that the specific vulnerabilities that existed at the ICTPL/Globicon CFS were exploited by the smuggling syndicate in the aforesaid incident of unauthorized removal of firecrackers. These vulnerabilities in the form inadequate facilities and failure to adhere to or violation of laid down norms, procedures at the ICTPL/Globicon CFS are described by them as follows: CCTV coverage having blind spots; manipulation of hazardous cargo; unauthorised container seal breaking; compromised perimeter security and that the repeat offences penalized in formal adjudications, issues flagged in statutory audits not addressed by them etc. DRI had informed the jurisdictional Commissioner of Customs, vide their letter dated 12.04.2026 that these vulnerabilities at ICTPL/Globicon CFS have lead to the deliberate illegal attempt to remove the restricted goods i.e., "Fireworks/ Firecrackers" of Chinese Origin.

2.4 On the above basis, the Commissioner of Customs, being the licensing authority had found that these are serious allegations involving failure to prohibit unauthorised access into their premises; failure to keep

a record of each activity or action taken in relation to the movement or handling of imported goods; failure to prevent clandestine removal of the imported goods; failure to ensure safety and security of premises and cargo; and failure to ensure that the container selected for scanning is properly scanned, all of which are the failure to fulfil the responsibilities entrusted upon the appellant CFS under Regulations 5(1)(n), clauses (b), (f), (g), (i) and (q) of sub-regulation (1) of Regulation 6 of Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR). Therefore, he ordered for immediate suspension of the approval accorded to ICTPL/ Globicon CFS for operating as Customs Cargo Service Provider (CCSP) with immediate effect vide Order dated 13.04.2026.

2.5 Since the aforesaid suspension order dated 13.04.2026 stopped any fresh receipt of import/export goods into the CFS, the appellant had filed an appeal before the Tribunal being No.85820 of 2026 assailing the said order. In disposal of the appeal, the Tribunal vide Order dated 30.04.2026, had without going into the details of the case, directed the concerned Commissioner to give a post-decisional hearing to the appellant on the matter by 06.05.2026 and to pass detailed speaking order. In compliance with such directions of the Tribunal, the learned Commissioner had accorded personal hearing to the appellant on 04.05.2026 and had issued the impugned order dated 05.05.2026. Feeling aggrieved with the impugned order, the appellant have filed this appeal before the Tribunal.

3.1 Learned Advocate appearing for the appellant stated that the operational procedures and access control mechanisms of the appellant CFS have been subjected to periodic audits and inspections by the Customs authorities. During such audits, the department had not raised any objection suggesting complete absence of SOPs, lack of access control, or unrestricted movement of vehicles and personnel within the CFS premises. The continued functioning of the CFS under departmental supervision and periodic audits itself establishes that systems and procedures were in existence and were operational. Apart from the Customs operation of the CFS has been audited by third parties. The CFS has received ISO accreditation for handling, transportation, warehousing and logistics of EXIM goods. The CFS also had obtained MacLead accreditation for compliance of CTPAT Security Criteria.

3.2 Learned Advocate pointed out that container No. TGHU6099161 was never marked as a 'suspicious container' by any investigating agency or Customs authority, and thus the same was handled and stacked in the ordinary course of handling import cargo as per SOP followed by them. He further stated that the CCTV footage depicting grounding and destuffing operation also demonstrates that there was no blind spots or this was out of coverage area in the CFS. The outsourcing of various services by the CFS having been done without obtaining permission of the Commissioner of Customs is devoid of merits as they had submitted a list of vendors providing various services vide their letter dated 13.02.2023 to the customs authorities. He further submitted that neither at the time of renewal of CCSP of the CFS nor in the annual audit/inspection of the appellant's CFS was there any mention about any deficiency or illegality in the operational practices of the CFS.

3.3 He further stated that the appellant candidly submits that due to the involvement and misconduct of certain individuals, the prescribed procedures may have been compromised in the peculiar facts of the present case. However, he stated that such isolated compromise or circumvention of a system by errant individuals cannot lead to the conclusion that the CFS itself operated without any process, supervision, or control mechanism. He stated that the appellant CFS had been co-operating with the investigation agency and submitted all the details, documents sought for by them, including CCTV footage. About 19 persons who are in their employment have presented themselves before DRI, for providing evidence and only Shri Milind Joshi, Asst. Manager (Exports) had been absconding after initially attending the investigation and therefore he had been terminated from the services of appellant CFS company. He further stated that they have also suo motto reviewed the operational procedures at their CFS and made significant changes for ensuring the safety and security of the cargo and for preventing any unauthorized vehicle or persons inside the CFS. These have been submitted to the Commissioner of Customs vide their letter dated 27.04.2026. Further, in comparison with one another case of D.P. World Multimodal Logistics vide order dated 28.08.2025, the learned Commissioner of Customs having taken note of the fact that the CFS in that case has given commitment to co-operate with the investigation and pending outcome of detailed inquiry, had revoked the order of immediate suspension dated 28.08.2025 on 04.09.2025. However, in their case he stated that despite all efforts taken by the appellant in co-operating with

DRI investigation agency and submitting the changes carried out in their operation, the learned Commissioner of Customs had simply taken it on record for verification before subsequent action is contemplated, and the impugned order continued the suspension of CCSP operation indefinitely. Therefore, he pleaded that the suspension of CFS operation indefinitely affecting the livelihood of more than 800 employees, both direct and indirect, and the business of the appellant's CFS as ordered in the impugned order is not sustainable and thus he pleaded that the appeal filed by them may be allowed.

4.1 The Special Counsel appearing for the Revenue reiterated the findings of the Commissioner of Customs and contended that the same is sustainable in view of the legal provisions cited in the impugned order. He stated that in the present case learned Commissioner of Customs had continued the suspension of the appellant CFS after giving them opportunity of personal hearing and in considering the various factors which are required to be complied under the HCCAR, 2009 including the fact that (i) there is a perceived risk to revenue; (ii) there is a threat to the security or integrity of the customs area; and (iii) the serious irregularities have been detected, which require the licensing authority to stop operations instantly to prevent damage to secure the Revenue's interests.

4.2 He further stated that the practice adopted by the appellant such as, cutting the seal of the container without the presence of Customs officer, offloading of cargo from the container without the filing a B/E or the permission of the Customs officer, bypassing scanning of goods even when marked for scanning are potential risks to revenue, through substitution. Bypassing of scanning would undoubtedly incentivize mis-description of goods and smuggling of high-valued items as well as import of prohibited/objectionable goods. Entry of vehicles and labourers without adequate checks further provide considerable leeway to substitution as well as pilferage of cargo. All the risks enumerated above were incident in the case of appellant CFS. In particular, the involvement of Chinese-origin Fireworks that are prohibited and potentially hazardous escalates this from a simple revenue matter to a security breach. Therefore, he stated that the sanctity of the customs area and essentiality of Customs control also stands breached; Within a short period of 10 days, the violation of every critical requirement of HCCAR by appellant CFS has been noticed and thus the laxity displayed by appellant CFS with impunity was evident and glaring. In

this regard, he presented few copies of photos taken from the CCTV camera installed in the appellant's CFS to bring forth the point that in the incident of the attempt for illegal removal of fireworks, the truck for removing the said fireworks from the container was kept ready at 16:31 Hrs. on 11.04.2026 within the CFS. Thus he submitted that the presence of the vehicle in unauthorized manner much ahead of the direction of DRI to put on hold such container having fireworks demonstrate the planned operation of the appellant CFS in the illegal act. He further stated that undeniably only because of the intervention of DRI at the right moment, the damage to revenue and security that would otherwise have been caused has been averted. Besides this, he also stated that this also raises the imponderable question whether the practices alluded to were going on in the past with regularity and if so, what would have been the extent of damage it would have caused.

4.3 In explaining the specific provisions of HCCAR, he stated that the object and scope of Regulation 11(2) are fundamentally preventive and regulatory in nature, and not punitive. The provision is invoked where the conduct of the CCSP demonstrates such serious lapses and systemic failures that allowing continued operations would pose an ongoing risk to revenue and the integrity of the Customs area. In such circumstances, he stated that the licensing authority is required to act swiftly to forestall further violations, and not to adjudicate or quantify liability in monetary terms. The validity of the suspension must be assessed solely on the basis of the seriousness of violations and the necessity of immediate preventive action, which stands fully justified in the present case.

4.4 Learned Special Counsel, therefore, submitted that the prayer to revoke the suspension of the appellant merits rejection as it is devoid of merit. In view of the above, he prayed that the Tribunal may reject the appeal filed by the appellant and uphold the suspension order dated 13.04.2026 passed under Regulation 11(2) of HCCAR, 2009 and the impugned order dated 05.05.2026 continuing the said suspension until further orders.

4.5 On the additional submission made by Revenue, the learned Advocate stated that in the present case, the facts clearly demonstrate that systems and procedures did exist; the vehicles had entered with valid documents; labour entry was documented and regulated; and the alleged

incident remained confined within the Customs area itself. Therefore, he stated that the sweeping allegation that the CFS functioned with unrestricted access and absence of control is factually incorrect, legally unsustainable, and liable to be rejected. He further submitted that, the learned Special Counsel is therefore impermissibly attempting to improve upon and supplement the impugned order by introducing entirely new factual allegations and legal grounds during arguments. It is a settled law that an adjudication order must stand or fall on the reasons contained therein and the deficiencies in the order cannot subsequently be cured by way of oral submissions or additional arguments advanced by counsel. The respondent cannot travel beyond the findings contained in the impugned order nor can fresh allegations be introduced at the appellate stage to justify the order retrospectively. Such an exercise is legally impermissible and liable to be rejected outright. In view of the above facts and circumstances, learned Advocate for the appellants stated that the allegations advanced in the additional submissions by Revenue deserve to be discarded as being factually incorrect, unsupported by record, and legally unsustainable.

5. Heard both sides and perused the records of the case, including the additional written submissions given in the form of paper books, comparison charts and written synopsis, by both sides. We also perused carefully the Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR) framed under Section 141(2) of the Customs Act, 1962 and the relevant circulars, instructions and Public Notices issued on the subject.

6.1 The issue to be addressed in the present appeal is whether the order dated 05.05.2026 passed by the learned Commissioner of Customs (General), CCSP section, Jawaharlal Nehru Custom House (JNCH), Nhava Sheva in exercise of the powers vested with him as per Regulation 11(2) of HCCAR, 2009 for suspension of the approval granted to the appellant ICTPL/Globicon CFS for functioning as Customs Cargo Service Provider (CCSP) w.e.f. 13.04.2026 to be continued until further orders and prohibiting fresh receipt of import/export cargo within the appellant's CFS is legally sustainable or not?

6.2 The operative portion of the impugned order dated 05.05.2026 is as given below:

"31. Considering the gravity of the violations, the material on record from DRI, the necessary to save revenue and ensure the integrity of

Customs-controlled areas, and in view of the fact that the CCSP has, even during the period of suspension, blatantly disregarded instructions by accepting fresh cargo into the CFS on at least occasions, it is observed that continuation of the suspension is warranted in the public interest, pending completion of investigation.

Order

32. *Therefore, in exercise of powers conferred under Regulation 11(2) of HCCAR, 2009, the suspension of approval granted to M/s International Cargo Terminal Private Limited (M/s ICTPL) vide Public Notice No.672023 dated 08.08.2023 is hereby continued until further orders,*

33. *The facility already extended vide Order dated 13.04.2026 regarding clearances of existing cargo shall continue. However, fresh receipt of import/export cargo shall remain prohibited.*

34. *This order is without prejudice to further action under HCCAR, 2009, the Customs Act, 1962, and any other provisions of the law."*

7.1 Learned Commissioner of Customs in the impugned order dated 05.05.2026 had come to the following conclusions and given his findings for passing the aforesaid order.

"15. The submissions made by M/s ICTPL have been carefully considered. The findings of investigation by DRI so far has also been considered. At the outset, it is observed that the case involves grave allegations relating to organized smuggling of prohibited/restricted goods, i.e., firecrackers of Chinese origin, through deliberate misdeclaration and systematic manipulation of processes within the Container Freight Station (CFS). The modus operandi, as brought out by the Directorate of Revenue Intelligence (DRI), clearly demonstrates that the illegal activities were not incidental or isolated lapses, but involved a coordinated sequence of actions requiring active facilitation within the CFS.

xxx

xxx

xxx

xxx

26. *I find that the contention raised by the authorised representative that the CFS cannot be held liable for the acts of its staff and employees on the principle of vicarious liability is not acceptable in the facts and circumstances of the present case. The investigation conducted by DRI, as communicated, clearly reveals that the irregularities are not attributable to a single errant employee but involve coordinated and systematic involvement of personnel across multiple levels, including operational executives, surveyors, seal cutters, and security staff. Most importantly, the key role appears to have been played by an Assistant Manager level employee, who is presently absconding, thereby indicating an organized modus operandi within the CFS. It is further noted that key managerial personnel, who are required to depose before the investigating authorities, are absconding, which itself raises serious concerns regarding supervisory control and accountability within the organisation. The role attributed to various employees, including deliberate misdeclaration of container scanning status by the surveyor, unauthorized opening of containers by seal cutters, and failure of security personnel to prevent unauthorized access to cargo handling*

XXX XXX XXX XXX

XXX XXX XXX XXX

7.2 Before we examine the above issue, the undisputed facts of the present case relevant for consideration of the issue under dispute are given in brief, as below:

- (i) the appellant ICTPL/Globicon CFS has been appointed as custodian of import/export cargo in terms of Section 45 of the Customs Act, 1962 read with Regulation 10 HCCAR, 2009 vide JNCH Notification No.12/2016 dated 23.12.2016;

(ii) in terms of the approval given by the learned Commissioner of Customs as the licensing authority, the appellant ICTPL/Globicon CFS are handling imported, export goods in the customs area specified under Section 8 *ibid*, to the extent they have been notified as the Customs Freight Station (CFS), for which in principle approval had been granted by the Inter Ministerial Committee of the Ministry of Commerce & Industry/CBIC in the Ministry of Finance i.e., the Central Government and the requisite infrastructure as may be necessary to operate as a CFS having been established, and after inspection of such infrastructure, specific approval for functioning as CCSP had been granted by the learned Commissioner of Customs, as licensing authority;

(iii) Central Board of Indirect Taxes and Customs (CBIC) have prescribed conditions and standards for establishing a CFS/ICD and have issued instructions/circulars from time to time for streamlining various procedures and for periodical evaluation by the local authorities concerned, vide Member (Customs) D.O. Letter No.434/15/2017-Cus.IV dated 16.08.2019 and Circular No.44/2020-Customs dated 08.10.2020 to ensure such standards and procedures are complied with by such CFS/ICD, including safety and security of revenue, by conducting inspections by Customs authorities;

(iv) the responsibilities of a CCSP has been specified under Relation 6 of HCCAR, 2009; and the basic conditions to be fulfilled by the persons applying for custodian for handling imported and export goods in customs area under Regulation 5 *ibid*.

(v) JNCH Customs authorities have also issued various instructions to the field formations and trade in the form of Standing Orders and Public Notices concerning various issues such as the procedure for putting on hold containers held in their custody by Port/ICD/CFS on the basis of certain intelligence; procedure for container scanning division; Procedure to be followed to check the status of container for scanning; Procedure for Sealing of containers marked as 'Suspicious' consequent upon scanning with Customs Seal etc.

Further, import of Firecrackers/Fireworks covered under Indian Trade (Harmonised System) Classification [(ITC(HS))] code 36041000 is 'restricted' and no person can import fireworks without a licence / authorisation from the Directorate General of Foreign Trade (DGFT) and Petroleum and Explosives Safety Organisation (PESO) under the Explosive Rules, 2008.

8. The case of the Revenue is that the appellant ICTPL/Globicon CFS has contravened the following:

(i) Regulation 5(1)(n) concerning safety and security of the cargo; and access control for prohibiting unauthorised access into the licensed CFS premises;

(ii) Regulation 6(1)(b) by falsely recording the status of the container having hazardous cargo as "scanned", without actually subjecting goods to the scanning process undertaken by the customs department

(iii) Regulation 6(1)(f) by allowing imported goods to be offloaded for removal from the customs area without filing the Bill of Entry or obtaining necessary permission from the customs officials;

(iv) Regulation 6(1)(g) by allowing export goods to enter CFS premises without a Shipping Bill (S/B) having been filed with proper officer of Customs;

(v) Regulation 6(1)(i) inasmuch as the CFS has failed to ensure overall safety and security of the imported goods and the cargo held under the charge, by allowing unauthorised persons, and authorised vehicles enter into the licensed premises and allowing their own employees colluding with miscreants by use of 'Kalmar' forklifts in shifting the container, cutting the seal of the container having imported goods without any authority, unloading the goods by use of unauthorised persons and methods, misuse of the safety cameras and other equipment in not recording such illegal action taken by them and attempting to remove the imported goods from the CFS, before the investigating agencies arrive at the CFS for taking necessary action to prevent the illegal activities.

(vi) Regulation 6(1)(q) in the appellant's failure to abide by the provisions of the Customs Act and the rules, regulations, notifications and orders issued thereunder.

9.1 Earlier, when the regulations were introduced into the custom statute vide Notification No.26/2009-Customs dated 17.03.2009, it has been specifically mentioned that these have been framed for providing a comprehensive mechanism for handling of goods in the customs area and to set out the terms and conditions for all facilities, where customs cargo is being handled. Further, the conditions and responsibilities of the persons handling the cargo in a CFS has been provided for providing the customs authorities with adequate control over the cargo handling entities such as ICD, CFS etc. so as to ensure that the adequate infrastructure is setup for efficient handling of import or export goods. The Circular No.13/2009-Customs dated 23.09.2009 providing salient features of the HCCAR and the instructions issued therein, explain the various provisions contained in HCCAR in a self-contained manner.

9.2 The relevant regulations of HCCAR, 2009 which have been alleged to have been violated and those relating to approval, suspension, procedure for suspension etc. are extracted and given below:

"Regulation 5. Conditions to be fulfilled by Customs Cargo Service provider -

The Customs Cargo Service provider for custody of imported goods or export goods and for handling of such goods in a customs area shall fulfill the following conditions, namely:-

(1) Provide the following to the satisfaction of the ²[Principal Commissioner of Customs or Commissioner of Customs, as the case may be], namely :

(i) Infrastructure, equipment and adequate manpower for loading, unloading, stacking, handling, stuffing and de-stuffing of containers, storage, dispatch and delivery of containers and cargo etc., including :-

xxx

xxx

xxx

xxx

(n) security and access control to prohibit unauthorized access into the premises, and

(o) such other equipment or facilities as the Board or Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may specify having regard to the screening, examination, custody and handling of imported or export goods in a customs area.

Regulation 6. Responsibilities of Customs Cargo Service provider:

(1) The Customs Cargo Service provider shall -

(a) keep a record of imported goods, goods brought for export or transshipment, as the case may be, and produce the same to the ¹[Inspector of Customs or Preventive Officer or Examining officer] as and when required;

(b) keep a record of each activity or action taken in relation to the movement or handling of imported or export goods and goods brought for transshipment;

(f) not permit goods to be removed from the customs area, or otherwise dealt with, except under and in accordance with the permission in writing of the Superintendent of Customs or Appraiser;

(g) not permit any export cargo to enter the customs area without a shipping bill or a bill of export having been filed with the Deputy Commissioner or Assistant Commissioner of Customs;

(i) be responsible for the safety and security of imported and export goods under its custody;

(q) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder.

(2) The Customs Cargo Service provider approved for custody of imported or export goods and for handling of such goods shall not lease, gift, sell or sublet or in any other manner transfer any of the premises in a customs area; or sub contract or outsource functions permitted or required to be carried out by him in terms of these regulations to any other person, without

the written permission of the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(3) The Customs Cargo Service provider shall publish and display at prominent places including website or webpage of the Customs Cargo Service provider the schedule of charges for the various services provided by him in relation to the imported goods or export goods in the customs area.

Regulation 10. Approval of appointment of a Customs Cargo Service provider and review thereof:

(1) Where the Principal Commissioner of Customs or Commissioner of Customs, as the case may be is satisfied that the applicant has fulfilled the conditions prescribed in regulation 5, he may approve such an applicant as a Customs Cargo Service provider, for a period of two years from the date of issue of such approval.

Provided *that a Customs Cargo Service provider already approved on or before the date of coming into force of these regulations, shall be deemed to be approved as a Customs Cargo Service provider under these regulations for a period of five years from the date of compliance with the conditions of these regulations as stipulated in regulation 4.*

(2) The Principal Commissioner of Customs or Commissioner of Customs, as the case may be shall review the approval granted under sub regulation (1) before the expiry of the initial period of approval of two years or five years, as the case may be, and may extend such approval to a further period of five years at a time.

Provided *that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, for reasons to be recorded in writing, may order for review of the approval granted to any Customs Cargo Service provider before the completion of the period of approval.*

Provided *further that in case of Customs Cargo Service provider authorised under 'Authorised Economic Operator Programme', the approval granted under sub-regulation (1) may be extended for a further period of ten years at a time.*

Regulation 11. Suspension or revocation of approval for appointment of a Customs Cargo Service provider:

(1) The Principal Commissioner of Customs or Commissioner of Customs, as the case may be may, subject to the provisions of these regulations, suspend or revoke the approval granted to the Customs Cargo Service provider subject to the observance of procedure prescribed under regulation 12 and also order for forfeiture of security, if any, for failure to comply with any of the provisions of the Act and the rules, regulations, notifications and orders made thereunder;

(2) Notwithstanding anything contained in sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be may, in appropriate cases where immediate action is necessary, suspend the approval granted to a Customs Cargo Service provider where an enquiry against such Customs Cargo Service provider is pending or contemplated.

Regulation 12. Procedure for suspension or revocation of approval and imposition of penalty:-

(1) *The Principal Commissioner of Customs or Commissioner of Customs, as the case may be] shall issue a notice in writing to the Customs Cargo Service provider stating the grounds on which it is proposed to suspend or revoke the approval and requiring the said Customs Cargo Service provider to submit within such time as may be specified in the notice not being less than thirty days, to the Assistant Commissioner or Deputy Commissioner of Customs nominated by him, a written statement of defence and also to specify in the said statement whether the Customs Cargo Service provider desires to be heard in person by the said Assistant Commissioner or Deputy Commissioner of Customs.*

(2) *On receipt of the written statement from the Customs Cargo Service provider, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), the Assistant Commissioner or Deputy Commissioner of Customs may inquire into such of the grounds as are not admitted by the Customs Cargo Service provider.*

(3) *The Assistant Commissioner or Deputy Commissioner of Customs shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings and he may also put any question to any person tendering evidence, for or against the Customs Cargo Service provider, for the purpose of ascertaining the correct position.*

(4) *The Customs Cargo Service provider shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings and where the Assistant Commissioner of Customs or Deputy Commissioner of Customs declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.*

(5) *At the conclusion of the aforesaid inquiry, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall prepare a report of the inquiry recording his findings.*

(6) *The Principal Commissioner of Customs or Commissioner of Customs, as the case may be] shall furnish to the Customs Cargo Service provider a copy of the report of the Assistant Commissioner or Deputy Commissioner of Customs and shall require the Customs Cargo Service provider to submit within the specified period not being less than thirty days any representation that he may wish to make against the findings of the Assistant Commissioner of Customs or Deputy Commissioner of Customs.*

(7) *The Principal Commissioner or Commissioner shall, after considering the report of the inquiry, and the representation thereon, if any, made by the Customs Cargo Service provider, pass such orders as he deems fit.*

(8) *If any Customs Cargo Service provider contravenes any of the provisions of these regulations, or abets such contravention or who fails to comply with any provision of the regulation with which it was his duty to comply, then, he shall be liable to a penalty which may extend to fifty thousand rupees.*

(9) Any Customs Cargo Service provider aggrieved by any decision or order passed under this regulation, may appeal under [section 129A](#) of the Act to the Customs Central Excise and Service Tax Appellate Tribunal established under sub-section 1 of [section 129](#) of the Act.”

On plain reading of the above regulations, it transpires that HCCAR applies to all 'Customs cargo service providers' (CCSPs) i.e., all persons operating in a customs area and engaged in the handling of import/export goods. These include the custodians such as the appellant ICTPL/Globicon CFS who are holding custody of import / export goods and handling such goods in customs area, but also all persons working on behalf of such custodians such as fork lift or material handling equipment operators, security personnel, material handling labourers, house-keeping staff, surveyors, transporters and drivers operating in CFS/port area for handling the goods meant for the appellant CFS etc. who are handling imported / export goods in any capacity in a customs area. These regulations provide for various responsibilities and conditions for different kinds of CCSPs. The conditions prescribed under Regulation 5 *ibid* would apply to the CCSPs who desire to be approved as custodians of imported / export cargo and thus handle goods in customs areas. These conditions does not apply to those persons who only provide certain services on their own or on behalf of the custodians referred above. However, responsibilities prescribed in Regulation 6 *ibid* on the other hand apply to both categories of persons i.e. all Custodians and persons who provide various services as above. Certain responsibilities specifically apply to one of the category. For example, the responsibility for safety and security, pilferage of goods under their custody, disposal of uncleared, unclaimed or abandoned goods within the prescribed time limit, payment of cost recovery charges of the customs officers posted in the facility are applicable to the persons who handle imported or export goods in the capacity of an approved custodian/ CFS. On the other hand, responsibilities for publishing or display of the schedule of charges for the activities undertaken in respect of imported/ export goods shall apply to both categories of persons. These responsibilities have been specified with the overall objective of expeditious clearance of goods, reduction of dwell time, transaction cost and to safeguard revenue.

9.3 As regards regulation of receipt of containers having import/export goods and its handling in CFS, under Regulation 7(2) *ibid*, it has been provided that the Commissioner of Customs may consider suspending the

entry of imported/export goods in a CFS for a temporary period of fifteen days, taking into account the factors such as congestion of containers/goods in a CFS, efficiency in handling the goods, delay in clearance of the goods etc., Similarly in respect of conditions and responsibilities to be fulfilled by CCSP who have been appointed as custodian of imported/export goods, it is specified that they had to take approval from the from the Commissioner of Customs, both for fulfilling the requisite conditions as custodian as well as for fulfilment of responsibilities for acting as a CCSP, including those persons appointed on contractual basis such as forklift operators, material handling equipment operators, housekeeping staff, security agency, labourers used for physical handling of goods, seal cutters etc., However, it was clarified that the licensed person CFS acting as custodian will be responsible for fulfilment of all the conditions of HCCAR even in respect of persons working on contractual basis on their behalf or with the permission.

9.4 Both the provisions of HCCAR and sections 8 & 45 of the Act of 1962 read with Section 16 of the General Clauses Act, 1897, clearly provide that in case of violations of the conditions or obligations prescribed therein, the jurisdictional Commissioner of Customs/licensing authority has to take necessary action including those of imposing penalty, suspension or taking away the custodianship by observing the principles of natural justice. The provision for suspension of approval given to a CCSP for acting as CFS/custodian is to be exercised in terms of Regulation 12 *ibid*, which provide for a transparent and objective procedure such as issuing a show cause notice, appointing a enquiry authority, providing for submission of written statement/documents letters, giving opportunity of personal hearing, entitlement for cross examination of persons which are being laid upon his evidences before the enquiry authority, presentation of the findings in the form of enquiry report, scrutiny of the report and providing for opportunity of personal hearing before the licensing authority and finally passing a speaking order on the basis of the inquiry report. Therefore, the provisions for immediate suspension of the CCSP under Regulation 11(2) is required to be taken only on establishing that (a) there is an appropriate case for taking exceptional action of immediate suspension, and (b) that it is necessary for taking immediate action of suspension pending or contemplating the enquiry proceedings. On the basis of above analysis and understanding of the provisions relevant to the issue under dispute, as provided under the Customs Act and HCCAR, we proceed to examine the

various allegations levelled against the appellant ICTPL/Globicon CFS in the following paragraphs for the purpose of Regulation 11 *ibid*.

9.5 As regards Regulation 5(n) *ibid* relating to 'Security and access control to prohibit unauthorized access into the premises' from the details submitted by Revenue, it is evident that there were four trucks bearing registration numbers viz., MH 04 KU 3433; MH 04 HY 8524; MH 46 AF 6002 and TG 08 V 2891 which had entered into the appellants CFS premises on 11.04.2026 /12.04.2026; while the truck bearing TG 08 V 2891 alone was authorised by a Customs Broker M/s Capricorn Logistics for entering into the appellants CFS for transporting the export cargo. Further, it is stated by Revenue that Let Export Order (LEO) for such export cargo had been given by the customs official at 17.33 Hrs. on 11.04.2026; and even such truck had entered at 18.25 Hrs. after grant of LEO. Thus, Revenue claims that there was free entry for vehicles without proper verification, as well entry of persons without proper verification and daily passes, and this posed serious threat to safety and security of goods stored in CFS. Further, seal cutters, Kalmar fork lift operator have attempted to remove the goods contained in the container that was put on hold/seized by DRI for removing the goods and stuffing the same into the vehicle that had unauthorizedly entered into CFS. Furthermore, such operation as evidenced in the CCTV footage had started at 16.31 Hrs., much prior to the instruction of DRI to put on hold the container TGHU 6099161. Therefore, Revenue claimed that all these had established the fact of clear failure of gate control, security checks and access management into the CFS area. Furthermore, certain past incidents of negligence that had happened at the appellants CFS and two containers that were allowed entry after the immediate suspension of CCSP ordered on 13.04.2026 were also cited by Revenue as the reason for continued suspension of the appellants as CCSP.

9.6 On the other hand, learned Advocate for the appellant had stated that about 400 containers are being handled in a day entering/exiting in the appellants CFS, and the entire operation is under the control of jurisdictional customs officers. Since a number of persons were involved in the activities of the CFS and particularly in the incident under investigation, in order to ensure that they are responsible for their activities as CCSP, they had cooperated with the investigation agencies/DRI and have furnished the CCTV coverage of the required areas,

details of the entry/exit of vehicles and other details as required by DRI. Further, about 18 persons in employment with their CFS including AGM (Operations), Deputy Manager (Operations), Senior executives, operational staff such as seat cutters, surveyors, Reach stacker/ Kalmar operator, security guards had appeared before the DRI to give their voluntary statements as per summons issued to them; it is only in respect of one Shri Milind Balkrishna Joshi, Assistant Manager (Exports) who appeared to have played significant role had been found absconding, after initial appearance before DRI on 16.04.2026 and 17.04.2026, and therefore the said person also was terminated for his gross mis-conduct, by the appellant. Besides, they stated the services of several surveyors have been suspended and one has been terminated. Further, the appellants have also submitted detailed written submission dated 27.04.2026 about the changes made in their operating procedures post the aforesaid incident including in the area of grounding of containers in the CFS, seal cutting of containers, gate exit of vehicles and visitor verification, in order to ensure that the safety and security of the import/export cargo is enhanced eliminating individual discretion. Considering the accumulating containers of more than 14000 TEUs in the last 24 days which are normally handled at their CFS and the growing congestion at terminal gates, operational delays in export gate-in and import container evacuation, they pleaded that continued suspension of their operation is affecting their business which employ more than 800 direct and outsourced employees and the operation of CFSs at JN port.

9.7 In terms of the functions carried out in a Container Freight Station (CFS), it is only an approved customs area located in the jurisdiction of a Commissioner of Customs exercising control over a specified Customs port, airport, LCS/ICD. A CFS cannot have an independent existence and has to be linked to a Customs station within the jurisdiction of the Commissioner of Customs. It is an extension of a Customs station set up with the main objective of decongesting the ports. In a CFS only a part of the Customs processes mainly the examination of goods is normally carried out by Customs officers besides stuffing/destuffing of containers and aggregation/segregation of cargo. For the purpose of Customs clearance at the ICDs/CFSs, Customs staff is provided on cost recovery basis and the custodians CCSPs are required to pay the cost recovery charges for the officers actually posted at the ICD/CFS. More specifically, Regulation 5(2) of the HCCR, 2009 requires the custodian to pay cost

recovery charges in respect of the Customs officers deployed at the ICD/CFS/port/airport etc., unless exempted by a specific order or a circular or instructions issued by the Ministry of Finance. In terms of the Establishment Order No. 77/2026 dated 08.05.2026 of the Commissioner of Customs (General), Mumbai Zone-II, three Preventive Officers (Inspectors) have been posted, on monthly rotational basis, for gate duties and vide another Establishment Order No. 79/2026 dated 18.05.2026, one Head Havildar had also been posted at the appellants' ICTPL/Globicon CFS. In the entire events of incidents explained by Revenue in their arguments, nothing about the role of the customs officers posted at the ICTPL/Globicon CFS, and whether they had failed to prevent the entry/exit of unauthorized vehicles or not were not available has not been provided. In fact, there is a Standing Order No.15/2018 dated 04.05.2018 of JNCH, Customs for prescribing the procedure to be followed when an information is received from any outside investigation agency, both during and even beyond the regular officer hours. There is no information as to what had happened to such information sharing mechanism for immediate action by field customs officers posted in the Central Intelligence Unit in the present case. In the additional submissions given by Revenue, the DRI vide e-mail communication dated 14.04.2026, 15.04.2026 had sought for various details CCTV footage, Gate In and Gate Out records, details of entry, carting of trucks, allocation of containers, entry of labourers etc., from the appellant ICTPL/Globicon CFS and in turn such requisite details have been provided by the appellant CFS to DRI. These details are shown to provide that the trucks have been allowed unauthorized entry into the CFS. Further, in the additional submission of Revenue, it is also found that there is e-mail correspondence by DRI with the customs broker M/s Capricorn Logistics Private Limited., who had explained about the clarification given by them explaining their position with respect to the above incident that happened at appellant CFS, and have also mentioned that they had filed a police complaint against one Shri Sandeep Shukla. The aforesaid extent of investigation with various persons involved indicate that there is an elaborate investigation required to bring forth the persons involved in the smuggling gang and it is still under progress.

9.8 Furthermore, in the 'Visit Report' of the Customs team headed by the Assistant Commissioner of Customs on the appellant ICTPL/Globicon CFS conducted on 18.12.2025, there is no mention about the 'existing provision for security and access control' being inadequate to prohibit

unauthorised access into the premises. Even in the earlier inspection conducted by the Customs authorities on 08.01.2025, there is no specific remarks about the security and access control of the appellants CFS premises. Therefore, we find that there is no official record in the form of 'Inspection Report' with respect to continuous evaluation of appellant ICTPL/Globicon CFS working under the licensing authority, except certain details from the preliminary investigation that too most of which have been obtained from the appellants CFS facility such as CCTV footage photos, entry/exit details of vehicles and persons. Therefore, at this stage it would not be feasible for any licensing authority/Commissioner of Customs to place factual evidence on record for providing his findings for taking a decision on suspension of the CCSP operation under Regulation 11(2) *ibid*, duly establishing the case, as being appropriate for immediate suspension. Further, Revenue has not shown that there is any show cause notice issued to the appellants CFS or any inquiry has already been contemplated or pending for obtaining an 'inquiry report'. For this reason alone, we find that the impugned order dated 05.05.2026 is liable to be set aside being not sustainable for legal scrutiny under the HCCAR, 2009.

10.1 We further find that a detailed procedure for inspection of ICD/CFS have been prescribed by the CBIC vide Circular No.44/2020-Customs dated 08.10.2020 following a D.O. letter written by Member (Customs) to all Chief Commissioners wherein, *inter alia*, it has been stated that it is necessary that each CFS is closely monitored by way of audit/inspection to ensure that their performance is of desired standards and to draw time bound action plan and to submit an action take report by 30.11.2019. A detailed proforma has been prescribed for inspection of the ICD/CFS, and the areas of inspection cover infrastructure, Security, handling of hazardous goods, staffing position, bonds and bank guarantee etc., In respect of the specific area of 'Security' fifteen points have been given to be checked by the customs inspection team, including the question of verifying "whether provision is made for security and access control to prohibit unauthorized access into the premises is adequate?". If these instructions of CBIC were followed by the department, then there would be a first inspection report ending 30th December, 2020 and subsequently five inspection reports for the year ending 2021, 2022, 2023, 2024 and 2025. From the two reports already available as submitted in the additional submissions of Revenue, we find that nothing adverse on the appellant's ICTPL/Globicon CFS about 'security and access control' has been

mentioned. Even in respect of report of inspection dated 08.01.2025 stating that CCTV coverage should be installed sought to cover the stuffing area of LCL Hazardous cargo, the appellants had stated that they had placed order for supply and installation of camera on 04.11.2025 itself. Therefore, we find no specific case has been made out by the facts available as on date to state that the 'security and access control' have been inadequate. On the other hand, it is only due to specific intelligence and alert watch of smuggling activity and coordinated efforts of DRI, that timely action has been taken by them in preventive illegal removal of 'fire crackers/fire works' from the customs area. Therefore, it is essential that once DRI's investigation is completed, then entire picture of the modus operandi of smuggling of firecrackers/ fireworks and all the persons involved in illegal activities would be brought to the fore.

10.2 On the issue of alleged violations under clauses (b), (f), (g), (i) and (q) of Regulation 6 of HCCAR, we find that the responsibilities prescribed in the said Regulation 6 ibid apply to both categories of persons i.e., all Custodians appointed under Section 45 ibid and persons who provide various services, both covered under the category of CCSP. Therefore, it is not feasible to pinpoint the illegal act to a particular person(s) working under the appellant ICTPL/Globicon CFS or a service provider outsourced by the appellant, even though the responsibility for the core activities rest with them. In this regard, we also find that the allegation of outsourced persons having been not approved by the Commissioner of Customs does not support the case of Revenue, as the appellant vide letter dated 13.02.2023 had provided a list of vendors who are currently working with the appellants CFS as outsourced service providers. Further, the allegation of two cases of import goods having entered in the appellant CFS beyond the date of suspension had been explained by the appellant that since the B/E for these have been filed on 13.04.2026 and the port authorities had already released the said containers having import goods, these had to be accommodated into the CFS for continued custodianship of such goods.

10.3 As regards the past violations that had occurred in the case of appellants CFS as point out by the Revenue in additional submission, these refer to improper handling of 'suspicious' container for which penalty was imposed vide order dated 14.03.2024; and another case of deliberate breaking and merging of compound wall expanding the customs earmarked area of CFS by 1355 SQM in an unauthorized manner. On the

first issue, we find that the Commissioner of Customs, NS-III, JNCH, Nhava Sheva had issued detailed procedure vide Public Notice No.61/2023 dated 28.07.2023 citing instances of pilferage/removal/replacement of goods from containers (especially marked as suspicious by CSD Officers) enroute to CFS from respective scanning points (DTCS or MXCS) have been brought to the knowledge of them. These points out that the incident in the present case is not an isolated one, but had been noticed earlier in few cases necessitating issue of a revised procedure. Further, vide Public Notice 16/2025 dated 07.02.2025, all stakeholders (CB, Importer/Exporter, Shipping Line, CFS, Port Terminal, etc.) can check the container status, i.e., whether the container is selected for scanning or not, and whether the container has been scanned and examined, by entering the container number, IGM number, and IGM date in the 'Check Container Status' tab of the web portal. Therefore, the allegation of false recording of 'scanning' as though it had been completed by the appellant CFS, bears no significance when authentic data is available. Further, in respect of second case vide order dated 08.05.2025, wherein the appellant had been imposed with penalty for commencing operations in unauthorized area of 1355 SQM, subsequently vide CFS Notification No.1/2025 dated 11.07.2025 the Commissioner of Customs had specified the same area as part of the appellant's CFS in exercise of the powers vested with him/her under Section 8(a) *ibid*. Therefore, it is not clear that whether these allegations of past cases stands proved or otherwise, unless a detailed inquiry is conducted and a factual report is available duly substantiated by evidences. Since we had examined the present case on the basis of facts available on record, we are not taking into account the comparison with the other case of D.P. World Multimodal Logistics vide order dated 28.08.2025 at this stage, where favourable order was passed by the learned adjudicating authority. Further, since the factual matrix of the each of the case would depend primarily on the facts peculiar to it, the various case laws cited by both sides are not examined at this stage, in the absence of specific findings in the form of 'inquiry report' or outcome of investigation in the form of show cause notice giving specific allegations.

11. From the foregoing discussions and analysis of the legal provisions under the HCCAR, 2009 and the Customs Act, 1962 and the factual matrix of the present case, we are of the view that the licensing authority should be able to take a decision on suspension of the appellants only on obtaining an inquiry report in terms of Regulation 12 of HCCAR. Since, the overall

objective of HCCAR being expeditious clearance of goods, reduction of dwell time, transaction cost and to safeguard revenue, and the specific provision of Regulation 7(2) *ibid* in regulating the entry of import/export cargo is only for a temporary period of 15 days, we find that indefinitely not permitting the entry/exit of import/export goods out of the appellant CFS is not in conformity with the legal provisions of HCCAR. On the other hand, the allegations duly supported by evidences and facts on the various activities leading to attempted removal of imported goods, that too 'Restricted goods' under the guise of house hold goods, brought out by the investigating agency/DRI also leaves no room for complacency in handling the aspect of safety and security of the imported/export goods in safeguarding the interest of Revenue.

12. We are making it clear that at this stage we are not expressing any opinion on the various allegations levelled against the appellant CFS/CCSP. This is for the reason that a detailed investigation by the investigation agency/DRI is underway and a separate inquiry proceedings under HCCAR, 2009 will also be undertaken stating the grounds on which suspension proceedings under Regulation 12 has been initiated in the form of show cause notice. Further, documentary evidences and oral evidences for admitting or not admitting the grounds mentioned in the SCN, cross-examination proceedings, if any, will be undertaken for preparation of an inquiry report by the Assistant/Deputy Commissioner of Customs providing his findings of the inquiry. On the basis of inquiry report and the representation to be submitted by the appellant CFS/CCSP, the learned Commissioner of Customs is to come to a conclusion on the nature of the violations against the conditions that are required to be fulfilled as a custodian under Regulation 5 *ibid* and failure to comply with the responsibilities of CCSP as provided under Regulation 6 of the HCCAR, 2009. Such detailed inquiry would also bring out the facts and evidences on the various allegations levelled against the appellants CFS for organized smuggling of fireworks/fire crackers by facilitation unauthorized removal; unauthorized entry of vehicles, goods and labourers; unauthorized seal cutting; fraudulent recording of scanning, lack of entry/exit control or gate control; and security mandates required for goods stored in CFS, and the allegation of involvement of management and lack of supervision by the management officials of appellant CFS.

13. In view of the above, we set aside the order dated 05.05.2026 of the learned Commissioner of Customs for having continued suspension beyond a reasonable period, without having substantiated the grounds for invoking immediate suspension under Regulation 11 *ibid*. However, we may make it abundantly clear that the Commissioner of Customs as a licensing authority is free to take any action as provided for under the HCCAR, 2009 including initiating a regular inquiry proceeding as provided for under Regulation 12 *ibid*.

14. In the result, the impugned order is set aside and the appeal filed by the appellant is allowed in their favour.

(Order pronounced in the open court on 08.06.2026)

**(S.K. Mohanty
Member(Judicial)**

**(M. M. Parthiban
Member (Technical)**

SM