



0IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

HCP.Nos.14/2013, 1184, 1328, 1373, 1388, 1469, 1476, 1477, 1494,
1509, 1510, 1575, 1576, 1601, 1671, 1687, 1715, 1746, 1799,
2028, 2072, 2113, 2114, 2271, 2418, 2800 and 2969/2014

J.MUMTAJ ...PETITIONER in HCP.14 of 2013

M.PATTU
W/O MANIKKAM ...PETITIONER in HCP.1184 of 2014

GUNA @ GUNASEELAN @
GUNA SEKARAN ...PETITIONER in HCP.1328 of 2014

KALAVATHI
W/O SRINIVASAN ...PETITIONER in HCP.1373 of 2014

TMT.GOWRI
W/O SAMBANDAM ...PETITIONER in HCP.1388 of 2014

S.DURAI
S/O.SHANMUGAM ...PETITIONER in HCP.1469 of 2014

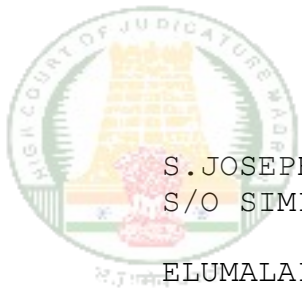
R.UKKRAVEL
S/O.RAMACHANDRAN ...PETITIONER in HCP.1476 of 2014

VASANTHA
W/O.NATARAJAN @ PALPANDI ...PETITIONER in HCP.1477 of 2014

VEERAPANDI
S/O.KUTY PAL ...PETITIONER in HCP.1494 of 2014

SIVAKUMAR
S/O. RANGANATHAN ...PETITIONER in HCP.1509 of 2014

RAJ
S/O. GAJENDRAN ...PETITIONER in HCP.1510 of 2014



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S.JOSEPH RAJ
S/O SIMIYON RAJ

...PETITIONER in HCP.1575 of 2014

ELUMALAI
S/O SAMIKANNU

...PETITIONER in HCP.1576 of 2014

KALAIMANI
S/O SIVAN

...PETITIONER in HCP.1601 of 2014

THIRUSELVI
W/O A.MURUGAN

...PETITIONER in HCP.1671 of 2014

P.MAHALAKSHMI
W/O PANNER SELVAM

...PETITIONER in HCP.1687 of 2014

KIRISHNAVENI
W/O PALANI

...PETITIONER in HCP.1715 of 2014

ARUMUTHU @ ARUSAMY
S/O.SEMALAI

...PETITIONER in HCP.1746 of 2014

NAGARAJ
S/O.NACHIMUTHU

...PETITIONER in HCP.1799 of 2014

BILAVENDRAN
S/O CHINNASAMY

...PETITIONER in HCP.2028 of 2014

PITCHAI
S/O.SAMINATHAN

...PETITIONER in HCP.2072 of 2014

DHAMODARAN
S/O SAMIKANNU

...PETITIONER in HCP.2113 of 2014

A.MURUGAN
S/O APPASAMY

...PETITIONER in HCP.2114 of 2014

MADHU
S/O APPU

...PETITIONER in HCP.2271 of 2014

S.NIRMALA
W/O P.SEKAR

...PETITIONER in HCP.2418 of 2014

BABU @ ALEXANDER
S/O RAJASEKARAN

...PETITIONER in HCP.2800 of 2014



R. JAYA
W/O MR. G. RADHAKRISHNAN

...PETITIONER in HCP.2969 of 2014

Versus

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The State represented by
the Secretary to Government of
Tamil Nadu, Department of Home
Fort St. George, Chennai 600 009.

...1st Respondent in HCP Nos.14/13,
1373,1388,1476,2418 and 2969/14

The State of TamilNadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai.

...1st Respondent in HCP Nos.1184,1328,
1469,1477,1494,1509,1510,1575,1576,
1601,1671,1687,1715,1746,1799,2028,
2072,2113,2114,2271 & 2800/14

The Additional Director General
of Prisons,
C.M.D.A Towers, Egmore
Chennai 600 008.

...2nd Respondent in HCP Nos.14/13,
1494,1601,1671,1799,2113,2418,
2800 & 2969/14

The Additional Director General
of Police & Inspector of Prisons,
Egmore, Chennai.

...2nd Respondent in HCP Nos.1184,1328,
1469,1476,1477,1509,1510,1575,1576,
1687,1715,1746,2028,2072,2114 & 2271/14

The Superintendent of Prison
Central Prison, Salem.

...3rd Respondent in HCP Nos.14/13 & 1328/14

The Superintendent of Prison,
Central Prison, Vellore.

...3rd Respondent in HCP Nos.1184,
1715,1477 & 2028/14



The Superintendent of Prison,
Central Prison, Cuddalore.

...3rd Respondent in HCP Nos.1476,
1509,2072,2114 & 2969/14

The Superintendent of Prison,
Central Prison, Coimbatore.

...3rd Respondent in HCP Nos.1746,
2271 & 2418/14

The Superintendent of Prison,
Central Prison of Women,
Puzhal, Chennai - 66.

...3rd Respondent in HCP No.2800/14

The Superintendent of Prison,
Central Prison,
Puzhal - I, Chennai - 66.

...2nd Respondent in HCP Nos.1373
& 1388/14

The Superintendent of Prison,
Central Prison - I,
Puzhal, Chennai - 66.

...3rd Respondent in HCP Nos.1469,
1510,1575,1576 & 1687/14

These Habeas Corpus Petitions are filed under Article 226 of
the Constitution of India, praying to

HCP No.14 of 2013
Directing the Respondent to consider the G.O. in G.O.(Ms)
No.1155 dated 11/09/2008 of the first respondent, and
produce the detainee J.Asalam aged about 38 years S/O
Jainulabuthin convict prisoner, No.6580 detained at
Central Prison, Salem.

HCP No.1184 of 2014
To produce the petitioner's husband namely Manikkam S/O
Gopal , Life Convict NO.4130 Aged about 53 yrs, now
confined in the Central Prison, Vellore. before the Honble
court and futher directing the respondents to consider the
petitioners husband immediately for premature release and
set him at liberty.



HCP No.1328 of 2014

To produce the petitioner namedly Guna @ Gunaseelan @ Gunasekaran S/o.Sudali, CT.NO.1121, Life Convict, aged about 33 years, now confined in the Central prison, Salem before the Hon`ble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.1155 Home (Prison-IV) Department DT.11.09.2008, for premature release and set him at liberty.

HCP No.1373 of 2014

To produce the Detenue SRINIVASAN, S/O GOBINATH, Now confined at Central Prison, Puzhal - I, Chennai before thsi Honble court and set him at liberty.

HCP No.1388 of 2014

Directing the respondents to produce the Detenue MUTHU, Son of Sambandam, life convict now confined at Central Prison, Puzhal, Chennai and Set him at Liberty.

HCP No.1469 of 2014

To produce the Petitioner namely Durai S/o.Shanmugam, C.T.No.1577, Life Convict, aged about 55 years, now confined in the Central Prison - I, Puzhal, Chennai 66 before this Hon'ble Court and directing the Respondents to consider the Petitioner immediately under G.O.Ms.No.1155 Home (Prison IV) Department dated 11.09.2009 for premature release and set him at liberty.

HCP No.1476 of 2014

To direct the Respondent 1 to produce the Petitioner's father, namely Ramachandran, S/o.Rajagopal, aged 76 years, Convict, Prisoner now confined in the Central Prison, Cuddalore before this Court and release him under G.O.Ms.No.1155 Home(Prison IV) Department dated 11.09.2008 and also on medical grounds.

HCP No.1477 of 2014

To direct the respondents to produce the petitioners husband namely NATARAJAN @ PALPANDI S/o.Kurusamy life convict CT.No.23937 aged about 50 years now confined in the Central Prison, Vellore before the Hon'ble Court and



further directing the Respondents to consider him immediately for premature release and set him at liberty.

HCP No.1494 of 2014

To issue a writ of Habeas Corpus directing the respondents to produce the petitioner namely Veerapandi, S/o Kutty Pal aged about 45 years, Life Convict, C.T.No.5082, confined in the Central Prison, Palayamkottai, Tirunelveli District before the Honble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.1155 Home (Prison-IV) Department dt.11.9.08, for premature release and set him at liberty.

HCP No.1509 of 2014

Directing the Respondents to produce the Petitioner namely Sivakumar S/o.Ranganathanm C.T.No.9194, Life Convict, aged about 39 years now confined in the Central Prison, Cuddalore before this Hon'ble Court, and directing the Respondents to consider the Petitioner immediately under G.O.Ms.No.1155 Home (Prison IV) Department dated 11.09.2008, for premature release and set him at liberty.

HCP No.1510 of 2014

To directing the Respondents to produce the Petitioner's brother namely Yeusdas, S/o.Gajendran C.T.No.875, aged about 40 years now confined in the Central Prison I, Puzhal, Chennai 66, before the Hon'ble Court and directing the Respondents to consider him under G.O.Ms.No.1155 Home (Prison IV) Department dated 11.09.2008 for premature release and set him at liberty.

HCP No.1575 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondent to produce the PETITIONER'S FATHER NAMELY SIMIYON RAJ S/O ADAIKKALAM, C.T.NO.336, LIFE CONVICT, AGED 55 YRS, NOW CONFINED IN THE CENTRAL PRISON, PUZHAL, CHENNAI Before the Honble court and directing the respondents to consider the petitioners father immediately under G.O.MS.NO.1155 Home (PRISON IV)Department dt 11/09/2008, For premature release,and produce him/her before this Hon`ble Court and set at liberty.



HCP No.1576 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondent to produce the PETITIONER NAMELY ELUMALAI S/O SAMIKANNU, LIFE CONVICT, C.T.NO.590 AGED 44 YRS NOW CONFINED IN CENTRAL PRISON I, PUZHAL, CHENNAI. before the Honble court and directing the respondents to consider the petitioners immediately under G.O.MS.NO.1155 Home (Prison IV) Department DT.11/09/2008, FOR Premature release and produce him/her before this Hon`ble Court and set at liberty.

HCP No.1601 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondent to produce the PETITIONER NAMELY KALAIMANI, S/O SIVAN AGED 57 YRS, LIFE CONVICT, C.T.NO.304, CONFINED IN THE CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DT Before the Honble court and directing the respondents to consider the petitioner immediately under G.O.MS.NO.1155 Home (Prison -IV) Department DT.11/09/2008, for premature release and, produce him/her before this Hon`ble Court and set at liberty.

HCP No.1671 of 2014

To issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner's father namely Ulaganathan, S/o Adimoolapandian aged about 60 years, Life Convict, C.T.No.2644, confined in the Central Prison, Palayamkottai, Tirunelveli District before the Honble Court and further directing the respondents to consider the petitioners father immediately for premature release and set him at liberty.

HCP No.1687 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the PETITIONER'S HUSBAND NAMELY PANNER SELVAM, S/O GOPAL, CT.NO.33, LIFE CONVICT, AGED 40 YRS, NOW CONFINED IN THE CENTRAL PRISON -1, PUZHAL, CHENNAI Before the Honble Court and directing the respondents to consider the petitioners husband immediately under G.O.MS.NO.1155 Home (Prison-IV) Department DT.11/09/2008,



for premature release, produce him/her before this Hon'ble Court and set at liberty.

HCP No.1715 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the PETITIONER'S HUSBAND NAMELY PALANI S/O GOVINDASAMY AGED 53 YRS LIFE CONVICT , C.T.NO.203 CONFINED IN THE CENTRAL PRISON, VELLORE BEFORE the Honble court and further directing the respondents to consider th petitionerss husband immediately for premature release and set him at liberty.

HCP No.1746 of 2014

To direct the Respondents to produce the Petitioner namely Arumuthu @ Arusamy, S/o.Semalai C.T.No.62438, Life Convict aged about 68 years now confined in the Central Prison, Coimbatore before the Hon'ble Court and directing Respondents to consider the Petitioner immediately under G.O.Ms.No.1155 Home (Prison IV) Department dated 11.09.2008 for premature release and set him at liberty.

HCP No.1799 of 2014

To direct the respondents to produce the petitioner namely Nagaraj S/o. Nachimuthu, Life convict C.T.No.20151, aged about 52 years confined in the central prison, Trichy before the Hon'ble Court and further directing the Respondents to consider the Petitioner immediately for premature release and set him at liberty.

HCP No.2028 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the PETITIONER'S namely BILAVENDRAN S/O CHINNASAMY AGED 58 YRS, LIFE CONVICT NO.3218, CONFINED IN THE CENTRAL PRISON, VELLORE before the Honble court and directing the respondents to consider the petitioner immediately under G.O. MS.NO1155 Home (Prison IV) Department DT 11/09/2008, for premature release and set him at liberty.



HCP No.2072 of 2014

To issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner namely PICHAI S/o. Saminathan C.T.No.7302, Life convict aged about 59 years, now confined in the Central Prison, Cuddalore before the Hon'ble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.1155 Home (Prison -IV) Dept, 11/09/2008 for premature release and set him at liberty.

HCP No.2113 of 2014

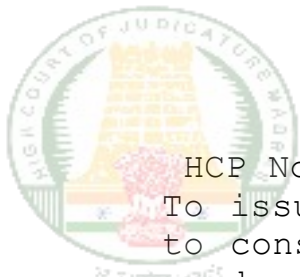
To issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner namely DHAMODARAN, s/o Samikannu aged about 67 yrs, Life convict, C.T.NO.6927, Confined in the Central Prison, Palayamkottai, Tirunelveli District before the Honble Court and directing the respondents to consider the petitioner immediately under G.O.MS.NO.1155 Home (PRISON -IV) Department DT 11/09/2008, for premature release and set him at liberty.

HCP No.2114 of 2014

To issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner namely MURUGAN , S/O APPASAMY, CT.NO.8330, LIFE CONVICT aged about 49 yrs, now confined in the Central Prison, Cuddalore before the Honble court and directing the respondents to consider the petitioner immediately under G.O.MS.NO.1155 Home (prison -iv) Department DT.11/09/2008, for premature release and set him at liberty.

HCP No.2271 of 2014

To issue a WRIT OF HABEAS CORPUS directing the respondents to produce the petitioner namely MADHU S/O APPU, CT.NO.78491, LIFE CONVICT aged 45 yrs now confined in the central prison, coimbatore before the Honble court and directing the respondents to consider the petitioner immediately under G.O.MS.NO.1155 home (prison iv) Department DT 11/09/2008, for premature release and set him at liberty.



HCP No.2418 of 2014

To issue a Writ of Habeas Corpus directing the Respondent to consider the G.O.in G.O.(MS) NO.1155 DT 11/09/2008 and produce the detainee SEKAR aged about 35 yrs S/O Pachaiyappan Convict NO.77958 Detained at Central Prison, Coimbatore before this Honble court and set him at liberty.

HCP No.2800 of 2014

To issue a WRIT OF HABEAS CORPUS, directing the 2nd respondent herein to set the petitioner namely, MR.BABU @ ALEXANDER aged about 33yrs, prisoner NO.CT.NO.629 who is now imprisoned at Central prison, Puzhal, chennai at liberty.

HCP No.2969 of 2014

To issue a WRIT OF HABEAS CORPUS, to produce her husband MR.S.G.RADHAKRISHNAN SON OF GOVINDAN , aged about 70 yrs, convict no.4146, now confined in Central prison at Cuddalore and set him at liberty.

For Petitioner in

HCP Nos.14/2013 and 2418/14 : Mr.S.Manoharan

For Petitioners in

HCP Nos.1184,1328,1469,1476,
1477,1494,1509,1510,1575,1576,
1601,1671,1687,1715,1746,1799,
2028,2072,2113,2114 & 2271/14 : Mr.P.Pugalenth

For Petitioner in

HCP Nos.1373 & 1388/14 : Mr.R.Sankarasubbu

For Petitioner in HCP.2800/14 : Mrs.S.Sridevi

For Petitioner in HCP.2969/14 : Mr.R.Veeramani

For Respondents in

HCP No.1510/2014 : Mr.S.Shanmugavelayutham
Public Prosecutor

For Respondents in the other

26 Habeas Corpus Petitions : Mr.A.N.Thambidurai
Addl. Public Prosecutor



COMMON ORDER

[Order of the Court was made by R.SUDHAKAR, J.,]

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The petitioners, in various capacities, have filed the above Habeas Corpus Petitions, seeking for the extension of the benefits of G.O.Ms.No.1155, Home [Prison IV] Department, dated 11.09.2008 to the detenus/detenues herein, who are life convicts and are confined in various Central Prisons in the State of Tamil Nadu.

2. It is the case of the petitioners in common, that most of the detenus/detenues in the above cases have completed more than 15 years of imprisonment in the respective Central Prisons ; but they were not given the benefits of G.O.Ms.No.1155 dated 11.09.2008, in and by which, the life convicts were released prematurely on fulfillment of certain conditions and that the detenus/life convicts in the present Habeas Corpus Petitions have already fulfilled the conditions stipulated in the said Government Order ; but they were denied the said benefits by the respondents on baseless reasons.

3. This Court heard the submissions of the learned counsel for the petitioners and Mr.P.Shanmugavelayutham, learned Public Prosecutor and Mr.A.N.Thambidurai, learned Additional Public Prosecutor appearing for the respondents in the above petitions and also perused the counter affidavits filed by the State.

4. A perusal of G.O.Ms.No.1155, Home [Prison IV] Department, dated 11.09.2008 would disclose that the Government has issued the said Government order in order to commemorate the Birth Anniversary of Arignar Annadurai, the Former Chief Minister of the State of Tamil Nadu which fell on 15.09.2008. Prior to the issuance of the said Government Order, certain criteria for premature release were formulated by the Government, data was collected from all the Prisons in the State relating to the number of convicts who would be eligible for premature release as on 15.09.2008. The Government identified around 1405 life convicts and they were released vide the said Government Order. Subsequently, the Government issued an amendment to G.O.Ms.No.1155 dated 11.09.2008, in G.O.No.1121, Home [Prison IV] Department dated 24.12.2009. It is the case of the petitioners in these batch of Habeas Corpus Petitions, that



the life convicts/detenus have satisfied the conditions specified in G.O.Ms.No.1155 dated 11.09.2008, as amended by G.O.Ms.No.1121 dated 24.12.2009 and therefore as on 15.09.2008, the detenus/life convicts ought to have been released.

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5. The State has filed counter affidavits in the above cases excepting HCP No.1510/2014, wherein it is stated that in some cases, the life convicts have made a representation seeking premature release and some of the representations made by the life convicts were rejected by the Authority, not competent to reject the same and certain representations were rejected by the Government on the ground of over-stay during parole period. In some cases, the life convicts have approached this Court directly without making any representation to the authority concerned. One of the common ground raised in the counter affidavits is that since the conduct of the life convicts in the above petitions are not satisfactory, their cases are not recommended for the extension of the benefit of G.O.Ms.No.1155, dated 11.09.2008.

6. Insofar as the cases, where the representation is made seeking the benefit of G.O.Ms.No.1155, Home [Prison IV] Department dated 11.09.2008 and where the same has not been considered by the Home Secretary/the 1st respondent herein is concerned, the same can, at best, be disposed of with a direction to the Home Secretary, to look into the respective claim of the life convicts in the above Habeas Corpus Petitions and consider their claim in accordance with the said Government Order and pass appropriate orders.

7. The order which this Court proposes to pass in the above said petitions, is solely on the ground that the Government Order, viz., G.O.Ms.No.1155 dated 11.09.2008, as amended by G.O.Ms.No.1121, Home [Prison IV] dated 24.12.2009, provides for premature release of life convicts who have completed 7 years of actual imprisonment as on 15.09.2008 and who have completed 60 years of age and above and have completed 5 years of actual imprisonment as on 15.09.2008. It also provides certain conditions, as referred to above, which are to be taken note of by the Authorities concerned while extending the benefits of the said Government Order.

8. A further perusal of the respective counter affidavits would reveal that in certain cases, the representations made by the detenus/detenuess have been considered by the Superintendents



of respective Central Prisons, who are not competent to act so and it is only the Home Secretary of the State who has to consider the claims of the life convicts seeking premature release. Hence, the statement made in certain counter affidavits that the representations of the life convicts were rejected by the Superintendents of respective Central Prisons, may not be appropriate. It is further seen that the rejection of the representations were not communicated to the detenus/life convicts in an appropriate manner, to which they are legally entitled and so also, to enable them to work out their further remedy as per law.

9. In view of the above, this Court is inclined to dispose of the above Habeas Corpus Petitions with the following directions:-

[1] The detenu/life convicts in the above Habeas Corpus Petitions are directed to submit a fresh representation to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order by the petitioners, by enclosing a copy of this order.

[2] The Superintendents of the respective Central Prisons, shall, on receipt of such representations, forward the same to the 1st respondent along with his remarks and Probation Officer's Report within a further period of eight weeks therefrom.

[3] The 1st respondent, on receipt of the remarks from the Superintendents of the respective Central Prisons, shall consider the same and if the life convicts / detenus are found to be eligible to be released prematurely as per G.O.Ms.No.1155, Home [Prison IV] Department, dated 11.09.2008, the papers may be placed before His Excellency The Governor, State of Tamil Nadu for passing appropriate orders. If found ineligible, orders with reasons shall be passed and communicated to the respective life convicts/prisoners through the prison authorities.



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The Habeas Corpus Petitions are disposed of accordingly.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary to Government of
Tamil Nadu, Department of Home,
Fort St. George,
Chennai 600 009.
2. The Secretary to Government of TamilNadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
3. The Additional Director General
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C.M.D.A Towers, Egmore
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8. The Superintendent of Prison,
Central Prison - I,
Puzhal, Chennai - 66.



9. The Superintendent of Prison,
Central Prison, Cuddalore.

10. The Superintendent of Prison,
Central Prison, Coimbatore.

11. The Superintendent of Prison,
Central Prison of Women,
Puzhal, Chennai - 66.

12. The Superintendent of Prison,
Central Prison,
Pallayamkottai, Tirunelveli.

13. The Superintendent of Prison,
Central Prison,
Trichy.

14. The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.S.Manoharan, Advocate, S.R.No.60416 & 60417
+2cc's to Mr.R.Sankarasubbu, Advocate, S.R.No.60445 & 60446
+20cc's to Mr.P.Pugalenth, Advocate, S.R.No.61110,61111,
61125 to 61133 & 61136 to 61144
+1cc to Mrs.S.Sridevi, Advocate, S.R.No.61021
+1cc to Public Prosecutor, High Court, Madras, S.R.No.60683

HCP.Nos.14/2013, 1184,
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SCD(CO)
CA(29/12/2015)