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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.A.Nos.2185, 2184, 1245, 1392, 1414 & 2093 of 2025
and
C.M.P.Nos.15881, 16701, 16698, 10729, 9447 & 10797 of 2025

W.A.Nos. 2185 & 2184 of 2025

1. CMA CGM SA

Having address at Boulevard Jacques Saade – 4,
Quai d'Arenc 13002, Marseille.

2.Emirates Shipping Line DMCEST,

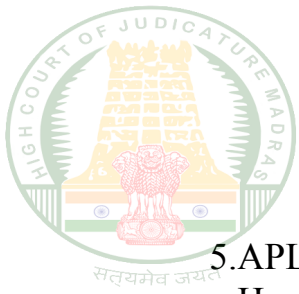
Having address at Office 203A, Almoosa Tower 2,
Sheikh Zayed Road, P.O. Box 12214,
Dubai, U.A.E.

3.Maersk AS,

Having address at Esplanaden 50,
1263 Copenhagen K,
Denmark.

4.Ocean Network Express Pte. Ltd.,

Having address at 7 Straits View,
#16-01, Marina One East Tower,
Singapore 018936.



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5.APL Co. Pte Ltd.,

Having address at 9 Noth Buona Vista Drive,
#14-01, The Metropolis,
Singapore 138588.

6.ZIM Integrated Shipping Services Limited,

Having address at 9 Andrei Sakharov,
St Haifa 3190500, Israel.

7.Hamburg Sud A/s & CO KG,

Having address at Willy-Brandt-Strabe,
59-65, 20457, Hamburg, Germany.

8.Hapag Lloyd AG,

Having address at Ballindamm 25,
20095 Hamburg, Germany.

9.Pacific International Lines (Pte) Ltd.,

Having address at PIL Building,
140 Cecil Street #03-00,
Singapore – 069540.

10.CMA CGM Agencies (India) Pvt Ltd.,

Having address at Office No. 219, 2nd Floor,
Metro House, Opp. PMTC, Off Wadia College,
Mangaldas Road, Pune 411 011,
Maharashtra, India.

11.Emirates Shipping Agencies (India) Pvt Ltd.,

Having address at A-91, Ground Floor (Unit 3),
Nagpal Business Towers, Okhla Indl. Estate Ph III,
New Delhi – 110 020.

12.Hamburg Sud India Pvt Ltd.,

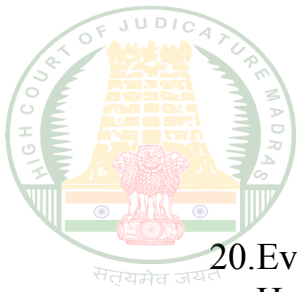
Having address at 4th Floor, Forbes Building,
Charanjit Rai Marg, Fort,
Mumbai – 400 001.



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13. Maersk Line India Pvt Ltd.,
Having address at 12th Floor, Tower A, Urmi Estate,
95 Ganpatrao Kadam Marg, Lower Parel (West),
Mumbai – 400 013.
14. Ocean Network Express Line (India) Pvt Ltd.,
Having address at Fulcrum, 3rd Floor,
A Wing, Sahar Road, Next to Hyatt Regency,
Andheri East, Mumbai – 400 099.
15. Pacific International Lines India Pvt Ltd.,
Having address at 807-809, Raheja Tower,
8th Floor, 177, Anna Salai,
Chennai – 600 002.
16. Yang Ming Line (India) Pvt. Ltd.,
Having address at No – 131, 13th Floor,
Centre – 1, World Trade Centre,
Cuffee Parade, Mumbai – 400 005.
17. Hapag – Lloyd India Pvt. Ltd.,
Having its address at 403/404
Satellite Gazebo, A wing, 4th Floor
Guru Hargovindji Marg, Andheri (East),
Mumbai City, Maharashtra - 400 093.
18. T.S.Lines (India) Pvt Ltd.,
Having address at Unit No.12, Ground Floor,
Technopolis Knowledge Park,
Mahakali Caves Road, Andheri (East),
Mumbai – 400 093.
19. ZIM Integrated Shipping Services (India) Pvt Ltd.,
Having address at Raheja Centre Point,
3rd Floor, 294 CST Road,
Kalina, Santacruz (East),
Mumbai – 00 098.



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20.Evergreen Shipping Agency (India) Pvt Ltd.,
Having address at Marathon Nextgen Innova,
“A”, G01, Opp. Peninsula Corporate Park,
Off. G.K.Marg Lower Parel (W),
Mumbai – 400 013.

.. Appellants

VS

1.Union of India,
Through Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2.The Commissioner of Customs,
(Chennai IV), 60, Rajaji Salai,
Customs House, 600 001.

3.Special Secretary Logistics,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi – 110 107.

.. Respondents

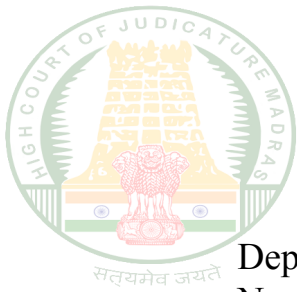
W.A.No. 1245 of 2025

MSC Mediterranean Shipping Company S.A.,
A body incorporated under the laws of Switzerland,
Having its registered office at Chemin Rieu 12,1208,
Geneva, Switzerland and carrying on business in India,
Through their Agent MSC Agency (India) Private Limited,
Rep. By its Constituted Attorney,
Mr.Macwin Fernandes

.. Appellant

VS

1.Union of India,
Through Secretary, Ministry of Finance,



W.A.No. 2185 of 2025 etc

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Department of Revenue,
North Block, New Delhi – 110 001.

2.The Commissioner of Customs,
(Chennai IV), 60, Rajaji Salai,
Customs House, 600 001.

3.Special Secretary Logistics,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi – 110 107.

.. Respondents

W.A.No. 1392 of 2025

MSC Mediterranean Shipping Company S.A.,
Having its registered office at Chemin Rieu 12,1208,
Geneva, Switzerland and Rep. By its Constituted Attorney,
Mr.Macwin Fernandes .. Appellant

VS

1.Union of India,
Through Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2.The Commissioner of Customs,
(Chennai IV), 60, Rajaji Salai,
Customs House, 600 001.

3.Special Secretary Logistics,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi – 110 107.

.. Respondents

W.A.No. 1414 of 2025



W.A.No. 2185 of 2025 etc

Container Shipping Line Association India,
A society registered under the
Societies Registration Act, 1860,
Having its Registered Address at
Mackinnon Mackenzie Building,
Ballard Estate, Mumbai – 400 001,
Rep. By its Authorized Signatory,
Mr.Sunil Vaswani residing at A/4, Ananta,
Rajaballi Patel Rd., Opp Breach Candy Hospital,
Mumbai – 400 026.

.. Appellant

VS

1.Union of India,
Through Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2.The Commissioner of Customs,
(Chennai IV), 60, Rajaji Salai,
Customs House, 600 001.

3.Special Secretary Logistics,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi – 110 107.

.. Respondents

W.A.No. 2093 of 2025

Container Shipping Line Association India,
A society registered under the
Societies Registration Act, 1860,
Having its Registered Address at
Mackinnon Mackenzie Building,
Ballard Estate, Mumbai – 400 001,
Rep. By its Executive Director,
Mr.Sunil Vaswani residing at A/4, Ananta,
Rajaballi Patel Rd., Opp Breach Candy Hospital,



W.A.No. 2185 of 2025 etc

Mumbai – 400 026.

.. Appellant

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VS

1.Union of India,
Through Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2.The Commissioner of Customs,
(Chennai IV), 60, Rajaji Salai,
Customs House, 600 001.

3.Special Secretary Logistics,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi – 110 107.

.. Respondents

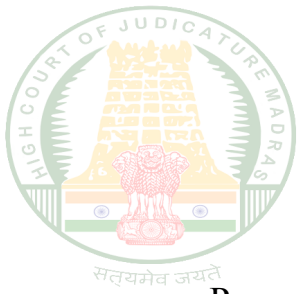
Prayer in W.A.No. 2185 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5418 of 2020.

Prayer in W.A.No. 2184 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5421 of 2020.

Prayer in W.A.No. 1245 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5067 of 2020.

Prayer in W.A.No. 1392 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5058 of 2020.

Prayer in W.A.No. 1414 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5069 of 2020.



W.A.No. 2185 of 2025 etc

Prayer in W.A.No. 2093 of 2025 : Appeal filed under Clause 15 of Letters Patent against order dated 26.02.2024 made in W.P.No. 5071 of 2020.

Writ Numbers	Appeal	For Appellant (s)	For Respondent(s)
2185, 2184 & 2093 /2025		Mr.Bodhisatiwa Majumdar For Mr.Rahul M Shankhar	Mr.Rajnish Pathiyil SPC for R1, R2 Mr. Ravi Meenakshi Sundaram CGSPC for R3
1245, 1414/2025		Mr.Srinath Sridevan, Senior Counsel For Mr.Rahul M. Shankhar	Mr.Rajnish Pathiyil SPC for R1, R2 Mr. Ravi Meenakshi Sundaram CGSPC for R3
1392/2025		Mr.Srinath Sridevan, Senior Counsel For Mr.Rahul M. Shankhar	Mr.Rajnish Pathiyil SPC for R1, R2 Mr.Rajesh Vivekanandan, Dy. Solicitor General for R3

COMMON JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

A common order has been passed by the writ court in 10 writ petitions and of the 10 writ petitioners, 6 are before us in appeal as against orders dated 26.02.2024.

2. The prayer in the writ petitions were for a writ of certiorarified mandamus calling for, and quashing Public Notices No.4 /



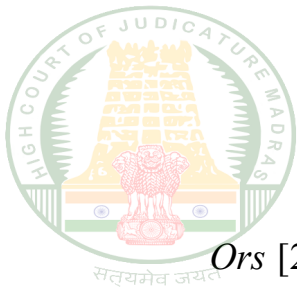
W.A.No. 2185 of 2025 etc

2020 dated 17.01.2020 and No. 4 / 2020 dated 28.01.2020, issued by the Commissioner of Customs. Those writ petitions also sought further directions to the respondents to continue with the earlier procedure, by permitting writ petitioners / appellants to collect the terminal handling charges to be paid to the ports.

3. The learned Judge has, at paragraph 55, of the impugned order, in fact, held that the impugned Public Notices do not affect the contractual relationship of the shipping lines and that they are not mandatory. He also states that what was extended under the Public Notices was merely an option to the exporters to pay terminal handling charges directly to the port.

4. So far so good, and in fact, the conclusions as above, would align with the stand of the appellants. They are, however, aggrieved by the last sentence in that paragraph when the learned Judge says that '*the exporters are always at the option to choose or to be bound by their contractual obligation*'.

5. The Bombay High Court in order dated 26.07.2024 in the case of *Container Shipping Lines Association (India) v Union of India &*



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Ors [2024: BHC-OS:11075-DB] had occasion to consider a challenge to the same Public Notices as impugned before this Court.

6. The Division Bench of the Bombay High Court has referred to an affidavit in reply, filed by the Customs Department, on behalf of itself and the Ministry of Finance, Union of India, wherein they state as follows:-

“24. I say that as discussed above, the Public Notice does not interfere in the private contract between the shipping lines and the exporters and in no way violates Article 14 and Article 19(1)(g) of the Constitution of India.”

With this, the position is clear to the effect that the Union does not intend the Public Notices as anything more than an advisory.

7. There is no mandate in the impugned Public Notices that would interfere with the contractual terms inter se the shipping lines and the exporters, and in such circumstances, the observations of the learned Judge, in the impugned order to the effect that the exporters had the option to choose to be bound by their contractual obligations, would be reading more into the Public Notices than what those Notices itself intended. The appellants would hence rest content with the clarification supra in regard to the last sentence in paragraph 55.

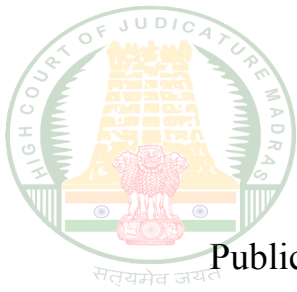


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8. The order of the writ court impugned before us has also been noted by the Division Bench at paragraph 7 (c) of the decision of the Bombay High Court in the following terms:-

*“(c) The judgments of both the Hon’ble Madras High Court in **MSC Mediterranean Shipping Company S.A. Vs Union of India & Ors. And other petitions** [Writ Petition No. 5058 of 2020 dated 26th February 2024] and Hon’ble Kerala High Court in **The Container Shipping Lines Association (India) & Ors. Vs. Union of India & Ors**[Writ Petition (c) No. 7435 of 2020 (D) dated 11th March 2020] relied upon by respondents, also assert that similar Impugned Public Notices do not curtail/take away the rights under the private contracts between the shipping lines and importer/exporter. We have to note the submission of Mr.Kamat that the aforesaid judgments do not lay down the correct position of law insofar as the powers of Customs Authority to issue the Impugned Public Notices No.14 of 2020 dated 28th January 2020 and 11 of 2020 dated 17th January 2020 are concerned. However, Mr.Kamat submit that petitioners may raise this issue in some other matters at appropriate stage.”*

9. A Division Bench of the Kerala High Court has also considered the similar issue and holding that there is no regulatory power on the basis of which Public Notices may be issued if it were to have the effect of interfering with the terms of private contracts i.e., contracts inter se shipping lines and shippers. The Court has held that the impugned



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Public Notices shall not be interpreted by the respondents in a manner that interferes with the terms of private contract between the parties.

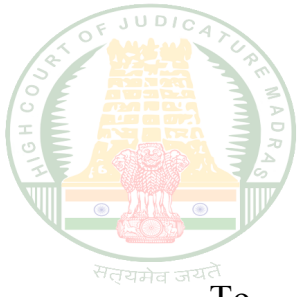
10. In light of the aforesaid, we dispose these writ appeals, directing that the impugned Public Notices cannot purport to interfere with private contracts that the shipping lines have entered into qua the importers and exporters, that are free to contract with the parties on commercial terms that are mutually acceptable.

11. As in the matter before the Kerala & Bombay High Courts, Appellants before us do not pursue the arguments relating to the power of the customs authority to issue Public Notices in the present matters, and only seek liberty to raise the arguments in an appropriate case. Such liberty is reserved.

12. These writ appeals stand disposed in terms of this order. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [N.S., J]
12.08.2025

Index: Yes/No
Neutral Citation: Yes
ssm



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To
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Union of India,
Department of Revenue,
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- 2.The Commissioner of Customs,
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DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

ssm

W.A.Nos.2185, 2184, 1245,
1392, 1414 & 2093 of 2025

12.08.2025