BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI

APPEAL NO.17 OF 2017(SZ)

M/s. V.V.Mineral
Tisaiyanvilai,
Tirunelveli District. Appellant

-Vs-

The Member Secretary,
Tamil Nadu Coastal Zone
Management Authority,
Guindy, Chennai – 600 015. Respondent

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This is to certify that the above documents are true copies of the original.

Date : 17.12.2020
Chennai

Standing Counsel,
National Green Tribunal,
(Southern Zone)

ABSTRACT

Mines and Minerals – Mining Lease – Garnet, Ilmenite and Rutile – Thoothukudi District – Formation of Special Team to inspect all the six lease areas of major minerals in Thoothukudi District – Orders – Issued.

Industries (MMD.1) Department

G.O. (Ms).No.156 **Dated: 8.8.2013**

Read:
விஜய ஆண்டு, ஆடி 23
திருவள்ளுவர் ஆண்டு 2044

1. From the Commissioner of Geology & Mining letter dated 8.8.2013 addressed to the Principal Secretary, Industries Department.

*****

ORDER:

The Commissioner of Geology & Mining in his letter first read above has informed that a report dated 6.8.2013 was received from the District Collector, Thoothukudi district informing that inspections of some of the leased areas for mining and minerals - Garnet, Ilmenite and Rutile in the district were undertaken and that instances of arge scale illicit beach sand mining has been detected in respect of some of the mining leases granted in Thoothukudi district. The District Collector has also reported that detailed field inspections may be undertaken by Special Team consisting of the departments of Revenue, Police, Environment and Forests, Geology & Mining in connection with the illicit mining of beach minerals by various lessees.

The Commissioner, Geology & Mining has recommended that in view of the report of the District Collector, a Special Team may be formed by the Government consisting of officers from the departments of Revenue, Environment and Forests and Geology & Mining to inspect the mining in all the leased areas of Garnet, Ilmenite and Rutile in Thoothukudi District as per section 24 of the Mines and Minerals (Development and Regulation) Act, 1957. The Commissioner of Geology & Mining has recommended that till the completion of the inspection by the Special Team, mining operations in respect of these leases may be directed to be stopped to facilitate inspections. The Commissioner of Geology & Mining has also recommended that the Assistant Director (Mines), Thoothukudi may be directed to stop forthwith the issuance of permits to transport the minerals.

The Government after careful examination of the report and recommendation of the Commissioner of Geology & Mining directs as follows:

- A Special Team will be formed, headed by Thiru Gagandeep Singh Bedi, IAS, Secretary, Revenue Department to inspect and verify in terms of Section 24 of Mines and Minerals (Development and Regulation)Act, 1957, whether there is illicit mining by the 6 lessees of minerals - Garnet, Ilmenite and Rutile in Thoothukudi district. This team will also consist of officers from the departments of Revenue, Environment and Forests and Geology & Mining. The Team members will be nominated by the respective Secretaries to Government.

- This Special Team shall exercise all the powers enumerated in section 24 of Mines and Minerals (Development and Regulation) Act, 1957.

- The District Collector, Thoothukudi will issue proceedings directing all lessees of minerals - Garnet, Ilmenite and Rutile in Thoothukudi district to stop the mining operations pending completion of the inspections by the Special Team.

- The Assistant Director, (Mines) Thoothukudi is directed to stop issuance of transport permits to the six lessees till the inspections are completed.

The Special Team is directed to complete the inspections expeditiously and submit its report to the Government within a month.

(BY ORDER OF THE GOVERNOR)

SHEELA BALAKRISHNAN
CHIEF SECRETARY TO GOVERNMENT

To

The Additional Chief Secretary to Government,
Environment and Forests Department, Chennai-9.
The Principal Secretary to Government, Home Department, Chennai-9.
The Secretary to Government, Revenue Department, Chennai-9.
The Chairman, Tamil Nadu Pollution Control Board,
Chennai-15.
The Director General of Police, Chennai-4.
The Commissioner, Geology & Mining, Chennai-32.

3

The District Collector, Thoothukudi.

Copy to:

The Additional Chief Secretary to Government /
Commissioner of Revenue Administration, Chennai-5
The Additional Chief Secretary/ Secretary – I to Hon'ble Chief Minister, Chennai-9.
The Principal Secretary/Secretary -II to Hon'ble Chief Minister, Chennai-9.
The Principal Secretary/ Secretary -III to Hon'ble Chief Minister, Chennai-9.
Special Personal Assistant to Minister (Industries), Chennai-9.
Special Personal Assistant to Minister (Revenue), Chennai-9.

SF/SC

//Forwarded by Order//

8.8.2013

SECTION OFFICER

ABSTRACT

Mines and Minerals – Mining Lease – Special Team to inspect the lease areas of major minerals like Garnet, Ilmenite and Rutile, etc. in Tirunelveli, Tiruchirapalli, Kanniyakumari and Madurai Districts – Orders – Issued.

Industries (MMD.1) Department

G.O.(Ms).No.173 **Dated: 17.9.2013**

Read :

1. From the Commissioner of Geology and Mining letter dated 8.8.2013 addressed to the Fririipal Secretary, Industries Department.
2. G.O.Ms.No.156, Industries (MMD.1)Department, dated 8.8.2013
3. From the Commissicrer of Geology and Mining letter dated 17.9.2013 addressed to the Principal Secretary, Industries Department.

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ORDER:

In the G.O. second read above a Special Team headed by Thiru Gagandeep Singh Bedi, IAS, Secretary, Revenue Department was constituted to inspect and verify in terms of Section 24 of Mines and Minerals (Development and Regulation) Act, 1957, whether there is illicit mining by the 6 lessees of minerals – Garnet, Ilmenite and Rutile in Thoothukudi District.

2. Now, the Commissioner of Geology & Mining in the reference third read above has informed that at present 52 leases in Tirunelveli District, 11 leases in Tiruchirappalli District, 6 leases in Kanniyakumari District and 2 leases in Madurai district totally 71 leases have been granted to private parties to mine major minerals like Garnet, Imenite, and Rutile, etc in Tamil Nadu. The Commissioner, Geology & Mining has requested that in order to have a comprehensive assessment of the mining of major minerals like Garnet, Ilmenite and Rutile, etc in Tamil Nadu, the Special Team headed by Thiru Gagandeep Singh Bedi, IAS, Secretary, Revenue Department constituted under G.O.Ms.No.156, Industries Department, dated 8.8.2013 may be directed to inspect leases granted to private parties in Tirunelveli, Tiruchirapalli, Kanniyakumari and Madurai Districts also where the mining operations of major minerals like Garnet, Ilmenite and Rutile, etc are undertaken.

3. After careful examination of the recommendation of the Commissioner of Geology and Mining, in order to have a comprehensive assessment of the mining of major minerals like Garnet, Ilmenite and Rutile, etc in districts other than Thoothukudi the Government have decided as follows:

- The Special Team headed by Thiru Gagandeep Singh Bedi, IAS, Secretary, Revenue Department constituted in G.O.Ms.No.156, Industries Department, dated 8.8.2013 is directed to inspect and verify in terms of Section 24 of Mines and Minerals (Development and Regulation) Act, 1957, whether there is illicit mining of major minerals like Garnet, Ilmenite and

Rutile, etc. in leases granted to private parties in Tirunelveli, Tiruchirapalli, Kanniyakumari and Madurai Districts. The Special Team will also consist of officers from the departments of Revenue, Environment & Forests and Geology & Mining. The Team members will be nominated by the respective Secretaries to Government.

- This Special Team shall exercise all the powers enumerated in section 24 of Mines and Minerals (Development and Regulation) Act, 1957.
- The District Collectors of Tirunelveli, Tiruchirapalli, Kanniyakumari and Madurai will issue proceedings directing all private lessees of major minerals like Garnet, Ilmenite and Rutile, etc. in Tirunelveli, Tiruchirappalli, Kanniyakumari and Madurai Districts to immediately stop the mining operations pending completion of the inspections by the Special Team.
- The Assistant Directors, (Mines) Tirunelveli, Tiruchirapalli, Kanniyakumari and Madurai Districts are directed to stop immediately the issuance of transport permits of major minerals like Garnet, Ilmenite and Rutile, etc. with respect to the leases granted to private parties in the respective districts till the inspections are completed.

4. The Special Team is directed to complete the inspections and submit its report to the Government expeditiously.

(BY ORDER OF THE GOVERNOR)

SHEELA BALAKRISHNAN
CHIEF SECRETARY TO GOVERNMENT

To
The Additional Chief Secretary to Government, Environment and Forests Department, Chennai-9.
The Principal Secretary to Government, Home Department, Chennai-9.
The Secretary to Government, Revenue, Chennai-9.
The Chairman, TNPCB, Chennai-15.
The Director General of Police, Chennai-4.
The Commissioner, Geology and Mining, Chennai-32
The District Collectors, Tirunelveli, Tiruchirappali, Kanniyakumari and Madurai.
The Assistant Directors,(Mines) Tirunelveli, Tiruchirappali, Kanniyakumari and Madurai Districts.

Copy to:
The Additional Chief Secretary to Government / Commissioner of Revenue Administration, Chennai-5
The Additional Chief Secretary/ Secretary – I to Hon'ble Chief Minister, Chennai-9.
The Principal Secretary/Secretary -II to Hon'ble Chief Minister, Chennai-9.
The Principal Secretary/Secretary -III to Hon'ble Chief Minister,Chennai-9.
Spl.PA to Minister (Industries), Chennai-9.
SF/SC

//FORWARDED BY ORDER//

17.9.2013
SECTION OFFICER

ABSTRACT

Industries – Mines and Minerals – Compiaints relating to illegal mining of Beach Sand Minerals – Disposal of complaints – Constitution of Taluk Level - District Level Committees and Appellate Forum for prevention of Illegal Beach Sand mining / Transportation of Beach Sand minerals - Constituted – Orders – Issued.

Industries (MMD.1) Department

G.O. (Ms) No.179

Dated: 27.07.2015
மன்மத வருடம், ஆடி 11
திருவள்ளுவர் ஆண்டு 2046

Read:

1. G.O. (Ms.) No.140, Industries (MMC1) Department, dated 11.07.2008.
2. G.O.(Ms.) No.135, Industries (MMA1) Department, dated 13.11.2009.
3. G.O.(Ms.) No.27, Industries (MMC2) Department, dated 17.02.2015.

***

ORDER:

Thiru G. Victor Rajamanickam of Usilampatti Village, has filed a public interest litigation petition in W.P. No.1592 of 2015 before the Hon'ble High Court of Madras seeking a Writ of mandamus or any other appropriate writ or order or direction in the nature of a writ directing investigation by a Special Investigation Team to probe illegal beach sand mining in the coastal districts of Tamil Nadu and bring the offenders to justice.

2. While hearing the public interest litigation petition in W.P.No. 1592/2015 filed by Thiru.G.Victor Rajamanickam on 17.03.2015, the Hon'ble First Division Bench of Madras High Court has advised the State Government to frame Taluk Level, District Level and State Level Committees consisting of Government officials from various departments to look into the complaints on illegal beach sand mining and transportation of beach sand minerals for taking appropriate action by the authorities concerned.

3. As advised by the Hon'ble High Court, the Government have decided to constitute Taluk Level Committee and District Level Committee comprising of officials from various Departments as detailed below to look into the complaints on illegal Beach Sand mining and transportation of beach sand minerals and for taking appropriate action by the authorities concerned. Accordingly, Taluk Level and District Level Committees are constituted with the following officials.

I. Taluk Level Committee:-

1. Tahsildar – Convenor
2. Inspector of Police

3. Forest Official (Forest Range Officer)
4. A Representative of Department of Geology and Mining in the concerned District.
5. A representative of Regional Transport Office.
6. Revenue Inspectors and Village Administrative Officers concerned.
7. Assistant Engineer (PWD-WRD)
8. A representative of District Environmental Engineer's office, Tamil Nadu Pollution Control Board.

4. If any complaint petitions regarding illicit beach sand mining/ transportation of beach sand minerals are received, the Taluk level committee is directed to take appropriate action on the complaint petitions and dispose the said complaint petitions by passing suitable orders on the merits of the case within a period of 30 days from the date of receipt of the petition. The Taluk level committee meeting shall be conducted fortnightly.

5. Any person, if aggrieved by the orders passed by the Taluk level committee or if orders are not passed on the complaint petitions within the stipulated time by the Taluk level Committee, may prefer an appeal before the District level Committee within a period of 30 days.

II. District Level Committee:-

1. District Collector
2. Superintendent of Police
3. District Revenue Officer
4. Revenue Divisional Officers
5. Assistant Director/Deputy Director (Geology and Mining)- Convenor
6. Deputy / Assistant Superintendents of Police
7. District Forest Officer
8. Executive Engineer (PWD-WRD)
9. Regional Transport Officer
10. District Environmental Engineer, Tamil Nadu Pollution Control Board

6. The District Level Committee shall review the functioning of the Taluk Level Committee and may suggest suitable measures for prevention of illegal beach sand mining and transportation of beach sand minerals. The District level committee is also directed to take appropriate action on the appeal petitions filed against the orders and decisions taken by the Taluk Level Committee or Cases in which orders are not passed within the stipulated time and those cases which are referred to the District level committee shall be disposed according to merits of the case within a period of two months. The District level committee meeting shall be conducted every month.

7. The Government have also decided to constitute an Appellate Forum for hearing the appeals filed against the orders and decisions taken by the District Level Committee and on the cases referred to by the Government and the Courts in connection with illegal beach sand mining/transportation of beach sand minerals. Accordingly, an Appellate Forum is constituted with the following officials.

III. State Level Appellate Forum:

1.	Additional Chief Secretary to Government	Industries Department

2.	Principal Secretary to Government	Environment and Forests Department
3.	Principal Secretary to Government	Public Works Department
4.	Secretary to Government	Revenue Department
5.	Commissioner	Department of Geology and Mining-Convenor
6.	Additional Director General of Police (L&O)	Chennai
7.	Chairman, Tamil Nadu Pollution Control Board	Chennai
8.	Chief Engineer (General)	Public Works Department, WRD Chennai.
9.	Dr.M.Jayaprakash	Associate Professor Department of Applied Geology, University of Madras

8. Any person aggrieved by any order made by the District Level Committee or if orders are not passed on the complaint petitions within the stipulated time i.e. two months by the District Level Committee, an appeal may be preferred before the State Level Appellate Forum within a period of 30 days from the date of receipt of the orders passed by the District Level Committee.

9. The State Level Appellate Forum shall review the functioning of the District Level Committee, call for records and do all such activities that are necessary for prevention of illegal beach sand mining / transportation of the beach sand minerals and suo-motu enquire into any complaints referred to it by any of the Courts, Government and other agencies.

10. The State Appellate Forum shall meet at least once in every two months and may devise its further procedure for investigating the complaints for follow up. The State Appellate Forum may decide on the further modalities to be adopted for disposal of such appeals after the first meeting of the above constituted Forum.

11. The Commissioner of Geology and Mining will be the Convenor of the meeting.

(BY ORDER OF THE GOVERNOR)

C.V.SANKAR
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT

To
Additional Chief Secretary to Government,
Industries Department, Chennai - 600 009.

Principal Secretary to Government,
Home & PE Department, Chennai – 600 009

Principal Secretary to Government,
Environment and Forests Department. Chennai -600 009.

Principal Secretary to Government,
Public Works Department, Chennai – 600 009

-9-

Secretary to Government,
Higher Education Department, Chennai-600 009.

Secretary to Government,
Revenue Department, Chennai-600 009

Commissioner of Geology and Mining,
Guindy,Chennai-600 032.

Additional Director General of Police,
(Law and Order).
O/o. The DGP, Chennai – 600 004.

NOC/NIS

Chairman,
Tamil Nadu Pollution Control Board, Guindy, Chennai – 600 032

Chief Engineer(General),
Public Works Department (WRD), Chennai.

Dr.M. Jayaprakash,
Associate Professor,
Department of Applied Geology,
Madras University, Chennai – 600 005.

Registrar, High Court, Chennai- 600 104.

Registrar, Madras University, Chennai - 600 005.

Copy to:
Private Secretary to Chief Secretary,
Secretariat, Chennai – 600 009

Private Secretary to Additional Chief Secretary,
Industries Department ;Secretariat, Chennai – 600 009

Special PA to Hon'ble Minister, Industries, Chennai-600 009

All District Collectors.

Industries (OP.II) Department , Chennai – 600 009
SF/SCs.

//Forwarded By Order//

27.7.2015
SECTION OFFICER

27.7.15

-10-

25.8.2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Twelfth day of August Two Thousand Fifteen

PRESENT

THE HON'BLE MR.SANJAY KISHAN KAUL THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE T. S. SIVAGNANAM

MP Nos.1 & 2 of 2015

IN WA.Nos.1168 & 1169/2015

1 THE STATE OF TAMILNADU [1-3 PETITIONERS IN ALL THE
REP BY THE SECRETARY TO GOVERNMENT, PETITIONS]
INDUSRIES DEPARTMENT, FORT ST.GEORGE, CHENNAI

2 THE SPECIAL COMMITTEE APPOINTED
UNDER G.O.MS.NO.158, REP BY ITS CHAIRPERSON,
MR.GAGADEEP SINGH BEDI, IAD, FORT ST.GEORGE,
CHENNAI

3 MR.GAGANDEEP SINGH BEDI, IAS
REVENUE SECRETARY TO GOVERNMENT, FORT ST.
GEORGE, CHENNAI

4 THE DISTRICT COLLECTOR [4-5 PETITIONERS IN MP.NO.1/2015
TIRUNELVELI DISTRICT IN WA.NO.1168/2015]

5 THE DISTRICT COLLECTOR
TUTICORIN DISTRICT

THE STATE OF TAMIL NADU, [PETITIONER IN MP.NO.2/2015
REP.BY SECRETARY TO GOVERNMENT, IN WA.NO.1169/2015]
FORT ST. GEORGE, CHENNAI

THE COMMISSIONER OF GEOLOGY AND MINING, [PETITIONER IN MP.NO.2/2015
CHEPAUK, CHENNAI IN WA.NO.1169/2015]

Vs

1 TRANSWORD GARNET INDIA PVT.LTD [RESPONDENT IN MP.1/2015]
REP BY ITS GENERAL MANAGER, STEPHEN DAVI, IN WA.NO.1168/2015]
NO.34/46, MGR ROAD, KALAKSHETRA COLONY,
BESANT NAGAR, CHENNAI 90

2 D.DHAYA DEVADAS [2nd RESPONDENT IN ALL THE PETITIONS]

COMMISSIONER OF GEOLOGY & MINING
07 SEP 2015
GUINDY, CHENNAI-600 032

AW 0099390

V.V.MINERALS, A FIRM,
REP.BY MANAGING PARTNER,
MR.S.VAIKUNDARAJAN,
KEERAIKARANSTHATTU,
TISAIYANVILAI, TIRUNELVELI DISTRICT.

[RESPONDENT IN MP.2/2015
WA.NO.1169/2015]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased

(i) To grant stay the operation of the common order dated 29/07/2015 made in WP NO.16716 of 2014(in MP.No.1/2015) pending disposal of the above writ appeal(in WA.1168/2015)and

(ii) To grant stay the operation of the common order dated 29/07/2015 made in WP NO.19641 of 2014 (in MP.No.2/2015)pending disposal of the above writ appeal(in WA.1169/2015)respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.A.L.SOMAYAZEE,AG assisted by M/S.I.N.RAJAGOPALAN, SPL GOVT PLEADER on behalf of the petitioners in each the petitions and of M/S.SRINATH SRIDEVAN, Advocate for 1st Respondent and M/S.V.SELVARAJ, Advocate for 2nd Respondent in all the petitions the court made the following order:-

Notice which is accepted by Mr.Srinath Sridevan, learned counsel for respondent No.1 and Mr.V.Selvaraj, learned counsel for respondent No.2.

Reply, if any, be filed within three weeks.

Rejoinder, if any, be filed within two weeks thereafter.

Till the next date, the operation of the impugned order is stayed.

-sd/-
12/08/2015

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

AW 0099391

TO

1 THE SECRETARY TO GOVERNMENT
THE STATE OF TAMILNADU INDUSRIES DEPARTMENT,
FORT ST.GEORGE, CHENNAI

2 THE CHAIRPERSON,
THE SPECIAL COMMITTEE APPOINTED
UNDER G.O.MS.NO.158, FORT ST.GEORGE,
CHENNAI

3 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT

4 THE DISTRICT COLLECTOR
TUTICORIN DISTRICT

5 THE COMMISSIONER OF GEOLOGY AND MINING,
CHEPAUK, CHENNAI

+2C.C. to SPL GOVT PLEADER, Sr.Nos.12058 & 12059

Order

in

MP Nos.1 & 2 of 2015

IN WA.Nos.1168 & 1169/2015

Date :12/08/2015

From 26.2.2001 the Registry is issuing certified copies of the Interim Orders in this format
RA 17/08/2015

HIGH COURT OF JUDICATURE AT MADRAS

AW 0099392

WP No.1592 of 2015

The Hon`ble The CHIEF JUSTICE
and
The Hon`ble Mrs Justice PUSHPA SATHYANARAYANA

G.Victor Rajamanickam
21, Shanthi Nagar, Pillayarpatti Post.
Thanjavur District.
Vs
Union of India,
Rep. by the Secreatry to Government,
Government of India, Ministry of Mines,
d Wing, 3rd Flr, Shastri Bhavan, New
Delhi-1. and 22 others.

The petitioner has affirmed an affidavit on 28.01.2016 tendering an unqualified apology for not disclosing the material facts which have been set out in the affidavit filed in support of the writ petition and seeks leave to withdraw from the proceedings.

2. We accept the unqualified apology, cautioning the petitioner to be careful in future and permit him to withdraw from the proceedings.

3. We would like to satisfy ourselves over the matter in issue and thus, direct the present writ petition to be converted into a suo-motu proceedings.

4. We would also like to implead the Companies viz., M/s.Southern Enterprises, M/s.Indian Garnet Sand Company Private Limited and M/s.Grace Minerals, represented by Mr.Dhaya Devadas, No.1/520, 7th street, Veerabadra Nagar, Mambakkam Main Road, Medavakkam, Chennai-600 100, which were being advised by the petitioner as respondent Nos.24 to 26.

5. Let notice issue to the newly impleaded respondent Nos.24 to 26, through Court process returnable on the next date with a direction that requisite counter-affidavits be filed within two weeks of service of the notice.

6. If any other respondent wants to file the counter-affidavits, let them file their counter-affidavits.

7. The learned Senior Counsel appearing for respondent Nos.8 and 22, on instruction states that there is no Monazite mining being carried on at all by the said respondents.

8. A three page note be kept ready for our assistance by the respondents.

9. Since the petitioner has now withdrawn from the proceedings, we appoint Dr.V.Suresh, Advocate (Cell No.9444231497 and Landline No.044-25352459) having office at Hussaina Manzil, 3rd Floor, New No.255, Old No.123, Angappa Naicken Street, Chennai-600100 as Amicus to assist us in this matter. A complete set of paper book be supplied to the learned Amicus by the Registry.

10. List on 15.03.2016.

[CJ] [P S N J]

28/01/2016

bbr

8	VIJAYAPATHI	3	All 3 belong to V.V. Minerals	1	0.05	1,000
9	THIRUVAMBALAPURAM	3	All 3 belong to V.V. Minerals	1	26.26	4,81,300
10	THIRUVAMBALAPURAM, VIJAYAPATHI & KOODANKULAM	1	V.V.Minerals	1	13.61	2,21,148
TOTAL		**52**	**0**	**38**	**412.99**	**90,29,838**

LESSEE-WISE DETAILS OF ILLICIT MINING IN TIRUNELVELI DISTRICT

NAME OF THE LESSEE	VILLAGES INVOLVED	NO. OF LEASES GIVEN	NO. OF LEASES WHERE ILLICIT MINING	EXTENT OF ILLICIT MINING (Acres)	QUANTITY OF ILLICIT MINING (MT)
BEACH SAND MINERALS COMPANY	KUTTAM	9	8	65.43	24,73,575
TRANS WORLD GARNET PVT. LTD.,	KARAISUTHU UVARI	14	12	94.75	21,80,484
V.V. MINERALS	KARAISUTHU UVARI, KARAISUTHU PUDUR, LEVINJIPURAM, IRUKKANTHURAI, KOODANKULAM, CHETTIKULAM, VIJAYAPATHI & THIRUVEMBALAPURAM	27	17	183.73	33,62,799
K. THANGARAJ	KARAISUTHU PUDUR	1	1	4.74	76,800
M. RAMESH	KARAISUTHU PUDUR	1	1	64.34	9,36,180
TOTAL		**52**	**38**	**412.99**	**90,29,838**

SUMMARY OF ILLICIT MINING IN KANNIYAKUMARI DISTRICT

SL. NO.	NAME OF THE VILLAGE	EXTENT OF ILLICIT MINING (ACRES)	QUANTITYOF ILLICITLY MINED MINERAL (MT)
1	LEASE-1, AZHAGAPPAPURAM	0.75	8,110
2	LEASE-2, AZHAGAPPAPURAM	2.42	39,116
3	LEASE-3, KANNIYAKUMARI	0.88	7,190
TOTAL		4.05 ✓	54,446 ✓

3. FINDINGS OF THE TUTICORIN/THOOTHUKUDI REPORT

3.47 The Special Team concludes that the instances of illicit mining have been noticed in 3 out of the 6 leases. For the remaining 3 sites, there are instances of the lessees getting transport permits without doing mining of BSM so as to use these elsewhere and possibly in areas of illicit mining.

3.48 Transport Permits have been issued for a total of Rs 8,46,500 MT for the 6 lease sites in Thoothukudi. Illicit mining has been noticed over a total area o 66.18 Ha to a extent of 10,29,955 MT.

3.49 The mining lease in Vaippar I village has also been granted with license to mine and handle monazite mineral. However, the records for the monazite separated and stored is not available.

3.50 Lease holders have not fully reported turnover to the Commercial Department.

SUMMARY OF ILLICIT MINING IN THOOTHUKUDI DISTRICT			
S.NO.	NAME OF LESSEE/VILLAGE	AREA ILLICITLY MINED (HA)	QUANTITY (MT)
1.	VV MINERALS/VAIPPAR	32.47.5	5,58,450
2.	INDUSTRIES MINERALS (P) LTD/ VEMBAR/PERIYASAMYPURAM	0.99	12.875
3.	INDIA GARNET SANDS CO. LTD/PADUGAPATTU	32.71.5	4,58,630
	TOTAL	66.18	10,29,955

XI. REPORT 10: JOINT INSPECTION REPORT OF MINING LEASEHOLD AREAS OF TIRUNELVELI, KANYAKUMARI AND THOOTHUKUDI FROM 24.04.2015 TO 27.04.2015 BY REGIONAL OFFICE OF MINISTRY OF ENVIRONMENT

3.51 This inspection was conducted pursuant to directions by the Director of Environment and Forest, Government of India, New Delhi. This report has recorded that V. V. Minerals has complied with all requirements of MMDR Act and Rules and indulged in no illegal mining and has also complied with Environmental Clearances.

3.52 It is pertinent to point out that the Principal Secretary to the Government of Tamil Nadu in his counter dated December 2016 has categorically stated that this report has not been authorised by the Government and hence it should not be taken on record.

3.53 The Government of Tamil Nadu has stated that it could not have been possible for the Joint Inspection team to have conducted a detailed study on illicit mining of Beach Sand Minerals in 4 days. It is stated that the government does not accept this report as they have already constituted a special team headed by Mr.Gagandeep Singh Bedi IAS and the report has also been submitted to the Court. The counter has also pointed out that the findings of the Joint Inspection team that the mining lessees have obtained licenses from AERB and mining has been carried out as per approved mining plans is not supported by any documents. The Report has stated that all royalty has been

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1716] नई दिल्ली, सोमवार, जुलाई 11, 2016/आषाढ़ 20, 1938
No. 1716] NEW DELHI, MONDAY, JULY 11, 2016/ASADHA 20, 1938

खान मंत्रालय

अधिसूचना

नई दिल्ली, 11 जुलाई, 2016

का.आ. 2356(अ).- केन्द्रीय सरकार, खान और खनिज (विकास और विनियमन) अधिनियम, 1957 (1957 का 67) की धारा 11ग द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :-

प्रथम अनुसूची के भाग ख में प्रविष्टि 11 के पश्चात् निम्नलिखित प्रविष्टि अंत: स्थापित की जाएगी, अर्थात् :-

"12. तटीय बालू खनिज, अर्थात्, टेरी या तटीय बालू में पाए गए लाभदायक भारी खनिज, जिनके अंतर्गत इलामेनाइट, रूटाइल, लियोकोक्सीन, गार्नेट, मोनाजाइट, जिर्कोन और सिलीमेनाइट भी हैं "

[फा. सं. 1/16/2015-एम. VI]
आर. श्रीधरन, अपर सचिव

MINISTRY OF MINES

NOTIFICATION

New Delhi, the 11th July, 2016

S.O. 2356(E).— In exercise of the powers conferred by section 11C of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following further amendments to the First Schedule of the Act, namely:–

In the First Schedule, in Part B, after entry 11, the following entry shall be inserted, namely:–

"12. **Beach sand minerals**, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.".

[F. No.1/16/2015-M.VI]
R. SRIDHARAN, Addl. Secy.

3461 GI/2016

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

THE FIRST SCHEDULE

[See section 4(3), 5(1), 7(2) , [1] [8(1),8A(1),10A,10B(1),10C(1), 11(1), 11B, 11C, 12A(1), and 17A(2A)]]

SPECIFIED MINERALS

PART A. Hydro carbons Energy Minerals

1. Coal and Lignite.

PART B. Atomic Minerals

1. Beryl and other beryllium-bearing minerals.
2. Lithium-bearing minerals.
3. Minerals of the "rare earths" group containing Uranium and Thorium.
4. Niobium-bearing minerals.
5. Phosphorites and other phosphatic ores containing Uranium.
6. Pitchblende and other Uranium ores.
7. [2][Titanium bearing minerals and ores (ilmenite, rutile and leucoxene)].
8. Tantalum-bearing minerals.
9. Uraniferous allanite, monazite and other thorium minerals.
10. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.
11. [3][Zirconium bearing minerals and ores including zircon.]

[5][12 Beach sand minerals, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.]

PART C. Metallic and Non-Metallic Minerals

1. Asbestos.
2. Bauxite.
3. Chrome ore.
4. Copper ore.
5. Gold.
6. Iron ore.
7. Lead.
8. [4][Omitted]
9. Manganese ore.
10. Precious stones.
11. Zinc.

---

[1] Substituted by MM (DR) Amendment Act, 2015, vide G.O.I. Ext. Part II, Section 1, No. 13, dated 27.03.2015 (No. 10 of 2015).

[2]Substituted by MM(RD) Amendment Act, 1999, Vide G.O.I Ext. Part II, Section I, No. 51, dated 20.12.1999 (No. 38 of 1999). [3] Ibid

[4]Omitted by MM(RD) Amendment Act, 1999, Vide G.O.I Ext. Part II, Section I, No. 51, dated 20.12.1999 (No. 38 of 1999). [5]Inserted by S.O. 2356 (E), dated 11.07.2016

MINISTRY OF FINANCE :: DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER OF CUSTOMS
Custom House, New Harbour Estate, Tuticorin – 628 004
Tel: (0461) 2252655,2352633 / Fax: 2352019

C.No.VIII/48/31/2016 -SIIB

Date:- 05.10.2016

To,

The District Collector.
Tirunelveli/ Tuticorin.

Sub:- Illegal mining of Beach Minerals- Reg.

*****

Please refer to this office letter C.No VIII/48/31/2016 SIIB dated 29.07.2016 on the above subject of illegal mining of beach sand minerals by VV minerals and others.

2. In this connection this office has received a letter from Assistant Director, Geology and Mining, Thoothukudi dated 11.08.2016 giving details of stock position of various companies pertaining to various periods from the date of mining ban.

3. Since the allegations of the complainants were that the minerals were illegally exported, the matter was looked into by this office. The export details retrieved from EDI of beach sand minerals exported from Tuticorin port, for the last five years upto 10.09.2016 is furnished below from the date of mining up to 10.09.2016.

Sl. No	Name of the Exporter	Qty of Beach Minerals Exported in MTs							Total
		2012-13	2013-14	2013-14 (Up to 07.08.13)	2013-14 (from 08.08.13)	2014-15	2015-16	2016-17 Upto 10.09.16	
01	Industrial Mineral Company	0	0	0	0	0	0	0	0
02	V.V. Minerals	498455	457675	241488	215187	304945	273738	86587	1621400
03	Beach Minerals Company	1021	62104	3159	58945	152704	112865	71567	400261
04	Vetrivel Minerals (Exporting from SEZ, Nanguneri)	12510	10750	8750	2000	0	0	0	23260
05	Transworld Garnet India P Ltd,	61392	47154	24844	22310	52359	53312	25312	239539
06	Indian Ocean Garnet	21926	11964	6094	5870	1526	39320	23713	98449

This office is not in a position to comment as to whether these goods were legally mined or not. This issue may be looked at your end, and the findings may be forwarded to this office.

4. It is also seen that, in the case of Sl.No. 3, of the above table, M/s Beach Minerals Company, the stock positions, year-wise and also as on the date of banning, are not given. The same may please be given to this office.

5. The details of export are also submitted for your information and necessary action, and any action taken in this regard may be informed to this office.

Yours faithfully,

07/10/16

(VARUN RANGASWAMY)
ASSISTANT COMMISSIONER

Copy to : 1. Shri. S Krishna Mohan,
Assistant Director,
Geology and Mining,
Thoothukudi

भारत सरकार / Government of India
वित्त मंत्रालय : राजस्व विभाग/ Ministry of Finance : Department of Revenue
सीमा शुल्क आयुक्त का कार्यालय/ OFFICE OF THE COMMISSIONER OF CUSTOMS
सीमा शुल्क गृह, नयी हार्बर एस्टेट, तूतीकोरिन-६२८००४ / CUSTOM HOUSE, NEW HARBOUR ESTATE, TUTICORIN - 628004
दूरभाष/ Tel: (0461) 235 2633/235 2655 फैक्स/ Fax : 235 2019

PUBLIC NOTICE NO. 50/2016

Subject : Export of Beach Sand Minerals – Reg.

...oo0Ooo...

Attention of Exporters, Customs Brokers, Custodians of Imported/Export Goods, Steamer Agents, officers of Customs and all others concerned are invited on the above subject.

2. The Assistant Director, Geology and Mining, Tuticorin has informed that the Govt. of Tamilnadu vide its G.O.Ms No. 156/8-08-2013 and G.O Ms No. 173/17-09-2013 has directed to stop the mining operation of all private mining lessees issued for Beach Sand Minerals, pending completion of inspection by special team and to stop the transport permit with respect to the lessees granted to private parties.

3. Also, complaints are being received from various Beach Minerals Associations, Trade Unions and General Public regarding the eligibility for export of Beach Sand Minerals, in light of Ban imposed by the Government of Tamil Nadu vide G.O. GO.Ms No. 156/8-08-2013 and G.O Ms No. 173/17-09-2013.

4. The District Collector, Tirunelveli has forwarded minutes of the District Level Committee Meeting vide letter dated 9-11-2016, requesting this office to insist on certain documents issued by state authorities, before allowing the beach sand minerals for export.

5. In view of the above, it has been decided to verify the source of Beach Sand Minerals being sent for export. The necessary certificates/ documents viz., Certificate of legally mined minerals from the concerned District Collector/transport permits along with bulk permits, certifying the legal source of such Beach Sand Minerals brought to the Customs Area for export under Section 50 of the Customs Act, 1962 are required to be produced.

6. Accordingly, as an interim measure all the exporters of Beach Sand Minerals are hereby required to produce the aforesaid documentary proof obtained from competent authority.

(ASHOK)
COMMISSIONER

C.No. VIII/48/06/2016 – Cus. Pol.(PF)
Customs Policy Section,
Custom House, Tuticorin.
Date: 22.11.2016

To:
As per Mailing List I, II and III.
Notice Board.
EDI Section, Custom House, Tuticorin for uploading in the Website.
Copy Submitted to the Chief Commissioner of Customs (Preventive), Trichy.

Scanned by CamScanner

Addl Affdvt
09 Dec 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 1592 of 2015

SUO MOTO PIL
REGISTRAR GENERAL
HIGH COURT
MADRAS

Petitioner

-Versus-

1. Union of India
   Represented by the Secretary to
   Government of India
   Ministry of Mines
   "D" Wing, 3rd Floor
   ShasthriBhavan
   New Delhi 110 001

2. The Secretary to Government
   Government of India
   Department of Atomic Energy
   AnushakthiBhawan
   C.S.M. Marg
   Mumbai 400 001

3. The Secretary to Government
   Government of India
   Ministry of Environment and Forest
   PariyavaranBhawan
   C.G.O. Complex
   Lodhi Road
   New Delhi 110 003

4. The Regional Controller of Mines
   Indian Bureau of Mines
   RajajiBhawan
   Chennai 600 090

5. The State of Tamil Nadu
   Represented by
   The Chief Secretary to Government
   Government of Tamil Nadu
   Fort St.George
   Chennai 600 009

6. The Secretary to Government
   Industries Department
   Government of Tamil Nadu
   Fort St.George
   Chennai 600 009

7. The Commissioner of Geology and Mining
   Government of Tamil Nadu
   Guindy
   Chennai 600 032
   Tamil Nadu

NOTARY
H.S. UPADHYAY
GOVT. OF INDIA

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव/Under Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg,
मुंबई/Mumbai-400 001

·24·

8. M/s V.V. Mineral
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District
Tamil Nadu

9. M/s Transworld Garnet India Pvt. Ltd.
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District

10. M/s Beach Mineral Sands Company
132, Tiruchendur Road
Kuttam 627 651
Tirunelveli District
Tamil Nadu

11. Mr. M. Ramesh
146, Palayamcottai Road
Tuticorin 628 003

12. M. K. Thankaraj,
49-A, Theppakkulam Street
Tuticorin 628 003
Tamil Nadu

13. M/s Industrial Mineral India Pvt. Ltd.
Raja Agency Business Complex
Madathur
Thoothukudi 620 008

14. M/s Vetrivel Minerals
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District
Tamil Nadu

15. M/s Industrial Mineral Company
No. 2, Harrington Road
K.R.M. Centre, 5th Floor
Chetpet
Chennai 600 031

16. M/s Beach Minerals Co. India Ltd.
133, Tiruchendur Road
Kuttam 627 651
Tirunelveli District
Tamil Nadu

17. M/s Beach Mineral Company Pvt. Ltd.
BMC House
32-2 Halls Road
Egmore
Chennai 600 008

18. M/s Beach Minerals Company
32-2, Halls Road
Egmore
Chennai 600 008
Tamil Nadu

19. M/s Balamurugan Company
32-2 Halls Road
Egmore
Chennai 600 008

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव/Under Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg,
मुंबई/Mumbai-400 001

20. M/s Indian Ocean Garnet Sands Co. Pvt. Ltd.
Tiruchendur Road
Navaladi
RadhapuramTaluk
Tirunelveli District 527 657

21. M/s Earth Mineral Resources Pvt. Ltd.
146 Palayamcottai Road
Tuticorin 628 003
Tamil Nadu

22. S. Vaikundarajan
Partner, V.V. Mineral
Keeraikaranthatu
RadhapuramTalulk
Tirunelveli District

23. ThiruGagandeep Singh Bedi I.A.S.
Secretary to Government
Revenue Department
Government of Tamil Nadu
Fort St.George
Chennai 600 009
Tamil Nadu ... Respondents

ADDITIONAL AFFIDAVIT FILED BY THE SECOND RESPONDENT

I, T.G. Raveendran, S/o (late) Shri P.Govinda Pisharody, Hindu, aged 54 years, residing at A-26, Hastinapur, Anushaktinagar, Mumbai 400 094 do hereby solemnly affirm and sincerely state as follows:

1. I am the Under Secretary to Government of India, Department of Atomic Energy, Anushakthi Bhawan, Mumbai 400 001, the second respondent of the case herein and I am well acquainted with the facts and circumstances of the case from the available records.

2. It is submitted that a detailed counter affidavit has already been filed in August 2015 in the above writ petition. Further, an additional affidavit was also filed in September 2016 in pursuance of the order dated 22.7.2016 passed in the said writ petition. This second additional affidavit is filed herein in pursuance to the hearing held on 21.11.2016 and order passed on the said day by this Hon'ble Court.

3. It is submitted that as regards monazite is concerned, the second respondent has elaborately furnished the importance of monazite under para 4(a) to (l) and the role of the second respondent for the purpose of grant of mining leases by the State Governments for mining beach sand minerals and the policy on monazite etc. under para 5 and 6 of the counter affidavit. In the additional affidavit filed by the second respondent in September 2016 pursuant to the order dated 22.7.2016 in respect of handling licenses and authorization for disposal/transfer of radioactive

टी.जी. रवीन्द्रन/T.G. Raveendran
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भारत सरकार / Government of India
परमाणु ऊर्जा विभाग / Department of Atomic Energy
अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
मुंबई / Mumbai-400 001

26.

wastes, the second respondent had stated that no licenses were issued under the Atomic Energy (Working of the Mines, Minerals and Handling of Prescribed Substances) Rules 1984 to private parties including VV Minerals (Respondent 8). However, Handling Licenses were issued to VV Minerals (Respondent 8) under the Atomic Energy (Radiation Protection) Rules, 2004. Regarding the documents relating to permission/authorization granted to respondents for disposal/transfer of radioactive waste under the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules 1987, it was stated that the "monazite" concentrates which are presently being stored does not qualify as "Wastes" and hence no authorization under the Atomic Energy (Safe Disposal of Radioactive Waste) Rules, 1987 were issued. It was also stated that necessary requirements for the safe storage have been included in the conditions of license issued under the Atomic Energy (Radiation Protection) Rules 2004. The said conditions are specified in the licenses issued to VV Minerals (Respondent 8) and copies furnished as mentioned in the typed set of documents filed along with the additional affidavit. Further as per the said order dated 22.7.2016, the second respondent also furnished the list of writ petitions, pending in respect of beach sand mining, filed by for and against the second respondent.

4. Regarding handling of monazite by private players like respondent 8, till 1998 before the introduction of the Policy on Exploitation of Beach Sand Minerals (BSM), all private players like Respondent 8 were allowed to produce Garnet and Sillimanite minerals only from the raw sand which was also containing prescribed substances like Ilmenite, Rutile, Leucoxene, Zircon and Monazite in different concentrations. All these seven minerals occur together in beach environment. After separation of Garnet and Sillimanite, the tailings containing other prescribed substances like Ilmenite, Rutile, Leucoxene, Zircon and Monazite were to be handed over to Indian Rare Earths Limited (IREL), a Government of India Company under the administrative control of the second respondent or as authorized by the second respondent. After the introduction of the said policy in the year 1998, all private players including respondent 8 were allowed to mine and win the prescribed substances like Ilmenite, Rutile, Leucoxene and Zircon, **except Monazite.** As mentioned above, the beach sand minerals include 'Prescribed Substances' as defined under Atomic Energy Act, 1962, and as such all beach sand mining players were required to obtain licence from the second respondent under the Atomic Energy (Working of Mines, Minerals and Handling of Prescribed Substances) Rules, 1984.

5. In 2007, when the said minerals viz. Ilmenite, Rutile, Leucoxene and Zircon were removed from the list of prescribed substances under Atomic Energy Act, 1962, there was no requirement for the beach sand mining players to obtain licence for these minerals. Further, as the other entry in the list of Prescribed Substances i.e. Monazite (which is radioactive) was not allowed to be mined out by private players, and was getting accumulated in the tailings of the BSM operators, the licencing procedures were oriented towards Radiological Safety and related issues under Atomic Energy (Radiation Protection) Rules, 2004. The State Governments, before granting mining lease in respect of these four minerals to beach sand mining players, have to obtain approval from the Ministry of Mines as per the provision of MMDR Act, 1957. As regards the

टी.जी. रवीन्द्रन/T.G. Raveendran
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अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
मुंबई / Mumbai-400 001

second respondent is concerned, as a policy, it is not allowing any private beach sand mining players to produce monazite. However, after separation of other minerals like Ilmenite, Rutile, Leucoxene, Zircon, Garnet and Sillimanite, there will remain Monazite-rich concentrates/tailings. The Monazite-rich tailings after separation of all other minerals stated above, have to be stacked and preserved by the private players as per the guidelines and directives issued by the second respondent /AERB in this regard. Towards the same, the private players have to obtain licence under the Atomic Energy (Radiation Protection) Rules, 2004 for the purpose of handling of Monazite enriched tailings. The private players cannot separate the Monazite from the Monazite-rich tailings.

6. It is submitted that, there is a mandatory requirement for all beach sand minerals facilities to obtain a licence from AERB (Atomic Energy Regulatory Board) under Atomic Energy (Radiation Protection) Rules, 2004. These private beach sand mining facilities separate out the heavy minerals (other than Monazite) from the beach sands and in the process produce Monazite enriched tailings which are subject to licencing by AERB with reference to radiological safety and safe management of Monazite enriched tailings.

7. As regards respondent 8 is concerned, AERB has given licence for operation of seven Mineral Separation Plants located in Tirunelveli and Tuticorin districts of Tamil Nadu. The plants at Vallanvilai, Vaippar, Ponnarkulam, Keeraikaranthattu, Kanagappapuram produce Ilmenite and/or garnet and the tailings which are now slightly enriched in Monazite are transported to Zircon Wet Plant at Thiruvambalapuram in Tirunelveli District for further concentration. The heavy mineral concentrates with appreciable Monazite content obtained from Zircon Wet Plant, Thiruvambalapuram are then transported to respondent 8 company at Authoor in Tuticorin district for further recovery of other heavy minerals such as Rutile, Sillimanite, Zircon (other than Monazite). The Monazite enriched tailings from Authoor Plant is then transported to the designated Monazite tailings storage area at Thuruvambalapuram as per AERB's licence conditions. As the above said process involves transportation of the Monazite enriched tailings which is a radioactive material, through public domain, it requires a separate approval for transportation of radioactive material under Rule 3 of Atomic Energy (Radiation Protection) Rules 2004 which were issued to the respondent 8. ***It must be seen that permission for transport is issued for Monazite enriched tailings and not Monazite*** as none of the non-DAE units are permitted for production of Monazite as product.

8. The Respondent 8 have filed a writ petition numbered as WP No. 9183 of 2013 before the Madurai Bench of the Hon'ble High Court of Madras challenging the order dated 04.3.2013 passed by the second respondent rejecting the application of the Respondent 8 for cracking Monazite. The second respondent reiterates that no private players including respondent 8 are allowed to crack Monazite taking into consideration that to remove Monazite from the Monazite rich tailings results in highly radioactive thorium and uranium and are vulnerable to leaching.

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव / Under Secretary
भारत सरकार / Government of India
परमाणु ऊर्जा विभाग / Department of Atomic Energy
अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
मुंबई / Mumbai-400 001

Hence the second respondent is restricting the grant of licenses for such processing of Monazite only to fully owned Public Sector Undertaking (IREL) of the second respondent and considered not to be in public interest to open this activity to private sector beach sand mineral players like respondent 8 company.

9. As already stated supra, by natural occurrence, Monazite mineral will be present in the left out tailings after removal of other minerals like Ilmenite, Rutile, Zircon, Garnet etc. and the second respondent through AERB is regulating the monazite rich tailings by way of issuing licence under the Atomic Energy (Radiation Protection) Rules 2004 and carrying out annual inspection of the sites of the beach sand mining players including respondent 8 solely from radiological safety aspects. During the inspection, the radiation field at various locations of the mineral separation plants, mining sites, backfilled sites and storage sites of monazite enriched tailings are measured, the radiation exposure records are checked and recommendations to improve the radiation safety such as control of spillages, display of radiation caution boards etc are made. The inspection reports of Respondent no. 8 carried out since 2007 are attached as **Exhbit-R1 (A-H)**. The formal licensing of the beach sand minerals facilities under Atomic Energy (Radiation Protection) Rules, 2004 started in 2009 consequent to the gazette notification dated 24.4.2009. The annual health physics reports are since then submitted which give the estimate of the doses received by the workers, the radiation filed measurement at various locations, the monazite content in the tailings being stored/backfilled and quantity of monazite enriched tailings stored /backfilled as per license condition. The Annual Health Physics Reports since 2010 onwards are annexed as **Exhbit-R2 (A-F)**. As mentioned earlier, **AERB's regulatory control over these facilities is limited only to radiological safety and safe management of Monazite enriched tailings and AERB does not carry out inventory checking of monazite enriched tailings.**

टी.जी. रवीन्द्रन/T.G. Raveendran
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अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
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10. It is submitted that the counter affidavit and the additional affidavit already filed by the second respondent may be read as part and parcel of this second additional affidavit as well.

टी.जी. एवीन्द्रन/T.G. Raveendran
अवर सचिव / Under Secretary
भारत सरकार / Government of India
परमाणु ऊर्जा विभाग / Department of Atomic Energy
अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
मुंबई / Mumbai-400 001

Before me

Solemnly affirmed at Mumbai
On this 9th day of December 2016 and
Signed his name in my presence.

BEFORE ME

M. S. UPADHYAY
B.Com.,L.L.B.
ADVOCATE HIGH COURT &
NOTARY, GOVT. OF INDIA
H-7/028, KEDAR LOKPURAM,
POKHRAN ROAD No. 2, THANE (W)
Mob. No.: 9321329333, 9867778003

This document is noted at
Sr. No. 14115/16 Pg. 174
in the Notarial Register

E.9 DEC 2016

NOTARY M. S. UPADHYAY AREA THANE-MUMBAI Regd. No. 11127 Exp. Date 30.03.2020 GOVT. OF INDIA NOTARIAL

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EXHIBIT-P3

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, WAHLAND, COCHIN- 682009
Switch : 0484-2668561 to 2668566
Telephone : 0484-2668774 : 2668776
Control Room : 0484-2668432
An ISO 15700 certified Custom House

F.No.C)/03/2016-IU Cus.

Dt. 22/12/2016

व्यापार सूचित्र TRADE FACILITY - 13/2016

विषय : समुद्र तटीय रेत के खनिजों का निर्यात - संबंधित।
Sub: Export of Beach Sand Minerals – Reg.

सभी सीमाशुल्क ब्रोकरों, निर्यातकों, आयात/निर्यात वस्तुओं के संरक्षकों, स्टीमर एजेंटों, सीमाशुल्क अधिकारियों और सभी अन्य संबंधितों का ध्यान उपर्युक्त विषय की ओर आकर्षित किया जाता है।

Attention of the Customs Brokers, Exporters, Custodians of Imported/Export Goods, Steamer Agents, officers of Customs and all other concerned are invited on the subject mentioned above.

2. तमिलनाडु सरकार द्वारा रोक लगाए जाने को ध्यान में रखते हुए समुद्र तटीय रेत के खनिजों के निर्यात के लिए पात्रता के संबंध में व्यापार संघों से अभ्यावेदन प्राप्त हो रहे हैं।

Representations are being received from Trade Associations regarding the eligibility for export of Beach Sand Minerals, in light of Ban imposed by the Government of Tamil Nadu.

3. तमिलनाडु सरकार ने अपने जी.ओ.एमएस सं. 156/8-08-2013 एवं जी.ओ.एमएस सं. 173/17-09-2013 के तहत सभी निजी खनन ठेकेदारों को समुद्र तटीय रेत के खनिजों के लिए जारी किए ठेकों के प्रचालन पर विशेष दल द्वारा निरीक्षण के पूरे होने तक रोक लगा दी है, और ठेकेदारों के संबंध में निजी पार्टियों को दिए गए परिवहन परमिट पर भी रोक लगा दी है।

The Govt. of Tamil Nadu vide its G.O.Ms No. 156/8-08-2013 and G.O.Ms No. 173/17-09-2013, has banned the mining operation of all private mining lessees issued for the Beach Sand Minerals, pending completion of inspection by special team and to stop the transport permit with respect to the lessees granted to private parties.

4. उपर्युक्त को ध्यान में रखते हुए, निर्यात के लिए भेजे जा रहे रेत के खनिजों के स्रोत की जांच करने का निर्णय लिया गया है। सीमाशुल्क अधिनियम, 1962 की धारा 50 के तहत निर्यात के लिए सीमाशुल्क क्षेत्र में लाए जाने वाले ऐसे समुद्रतटीय रेत के खनिजों के वैध स्रोत को प्रमाणित करने के लिए आवश्यक प्रमाणपत्र/दस्तावेज़ जैसे, संबंधित जिलाधीश से वैध रूप से खनन किए गए खनिजों संबंधी प्रमाणपत्र/थोक परमिट के साथ परिवहन परमिट, प्रस्तुत किए जाने आवश्यक हैं।

In view of the above, it has been decided to verify the source of beach Sand Minerals being sent for export. The necessary certificates/documents viz., Certificate of legally mined minerals from the concerned District Collector/transport permits along with bulk permits, certifying the legal source of such Beach Sand Minerals brought to the Customs Area for export under Section 50 of the Customs Act, 1962 are required to be produced.

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EXHIBIT-P3/2

5. Accordingly, as an interim measure all the exporters of Beach Sand Minerals are hereby required to produce the aforesaid documentary proof obtained from competent authority.

Sd/-

(डॉ. के. एन. राघवन DR.K.N.RAGHAVAN)
आयुक्त COMMISSIONER

//अनुप्रमाणित ATTESTED//

//बिजू डानियल BAIJU DANIEL//
मूल्यनिरूपक (टैरिफ यूनिट)
APPRAISER (TARIFF UNIT)

प्रतिलिपि Copy to:

1. The Chief Commissioner's Office, Cochin
2. Commissioner's file/Addl. Commissioner/All DCs & ACs/Development Commissioner (CSEZ)/All Appraisers/
3. All Sections
4. EDI Section for uploading on Website of Cochin Customs
5. The Chairman, Cochin Port Trust
6. All CFSs
7. All Bank Managers as per list of authorized Banks w.e.f: 16.01.2012
8. The Cochin Custom House Agent's Association
9. Guard file
10. Notice Board

This is the true copy of document referred marked Exhibit P 3 to in the Writ Petition

ADVOCATE

R2
10/1/2017 32.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 1592 of 2015

SUO MOTO PIL
REGISTRAR GENERAL
HIGH COURT
MADRAS

Petitioner

-Versus-

1. Union of India
   Represented by the Secretary to
   Government of India
   Ministry of Mines
   "D" Wing, 3rd Floor
   ShasthriBhavan
   New Delhi 110 001

2. The Secretary to Government
   Government of India
   Department of Atomic Energy
   AnushakthiBhawan
   C.S.M. Marg
   Mumbai 400 001

3. The Secretary to Government
   Government of India
   Ministry of Environment and Forest
   PariyavaranBhawan
   C.G.O. Complex
   Lodhi Road
   New Delhi 110 003

4. The Regional Controller of Mines
   Indian Bureau of Mines
   RajajiBhawan
   Chennai 600 090

5. The State of Tamil Nadu
   Represented by
   The Chief Secretary to Government
   Government of Tamil Nadu
   Fort St.George
   Chennai 600 009

6. The Secretary to Government
   Industries Department
   Government of Tamil Nadu
   Fort St.George
   Chennai 600 009

7. The Commissioner of Geology and Mining
   Government of Tamil Nadu
   Guindy
   Chennai 600 032
   Tamil Nadu

NOTARY
R. S. KAKAD
GREATER MUMBAI
(MAHARASHTRA)
Regd. No. 10320
Expiry Date
24-10-2018
GOVERNMENT OF INDIA

for R1 to R7

टी.जी. रवीन्द्रन/T.G. Raveendran
Under Secretary
Government of India
Department of Atomic Energy

Received in Office
2 pm
10/1/2017

8. M/s V.V. Mineral
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District
Tamil Nadu

9. M/s Transworld Garnet India Pvt. Ltd.
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District

10. M/s Beach Mineral Sands Company
132, Tiruchendur Road
Kuttam 627 651
Tirunelveli District
Tamil Nadu

11. Mr. M. Ramesh
146, Palayamcottai Road
Tuticorin 628 003

12. M. K. Thankaraj,
49-A, Theppakkulam Street
Tuticorin 628 003
Tamil Nadu

13. M/s Industrial Mineral India Pvt. Ltd.
Raja Agency Business Complex
Madathur
Thoothukudi 620 008

14. M/s Vetrivel Minerals
Keeraikaranthattu
Tisaiyanvilai 627 657
Tirunelveli District
Tamil Nadu

15. M/s Industrial Mineral Company
No. 2, Harrington Road
K.R.M. Centre, 5th Floor
Chetpet
Chennai 600 031

16. M/s Beach Minerals Co. India Ltd.
133, Tiruchendur Road
Kuttam 627 651
Tirunelveli District
Tamil Nadu

17. M/s Beach Mineral Company Pvt. Ltd.
BMC House
32-2 Halls Road
Egmore
Chennai 600 008

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सचिव/Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg.
मुंबई/Mumbai-400 001

18. M/s Beach Minerals Company
32-2, Halls Road
Egmore
Chennai 600 008
Tamil Nadu

19. M/s Balamurugan Company
32-2 Halls Road
Egmore
Chennai 600 008

20. M/s Indian Ocean Garnet Sands Co. Pvt. Ltd.
Tiruchendur Road
Navaladi
RadhapuramTaluk
Tirunelveli District 527 657

21. M/s Earth Mineral Resources Pvt. Ltd.
146 Palayamcottai Road
Tuticorin 628 003
Tamil Nadu

22. S. Vaikundarajan
Partner, V.V. Mineral
Keeraikaranthatu
RadhapuramTalulk
Tirunelveli District

23. Thiru Gagandeep Singh Bedi I.A.S.
Secretary to Government
Revenue Department
Government of Tamil Nadu
Fort St.George
Chennai 600 009
Tamil Nadu

... Respondents

REPLY AFFIDAVIT FILED BY SECOND RESPONDENT

I, T.G. Raveendran, S/o (late) P. Govinda Pisharcdy, Hindu, aged 54 years, residing at A-26, Hastinapur, Anushaktinagar, Mumbai 400 094 do hereby solemnly affirm and sincerely state as follows:

1. I am the Under Secretary to Government of India, Department of Atomic Energy, Anushakthi Bhawan, Mumbai 400 001, the second respondent of the case herein and I am well acquainted with the facts and circumstances of the case from the available records.

2. It is submitted that the reply affidavit is filed herein in compliance of the direction passed in the order dated 21.11.2016 under para 9. Under the said para, respondents 8 and 22 viz. V.V. Minerals

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव/Under Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg,
मुंबई/Mumbai-400 001

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have been directed to furnish the requisite information as sought for by Amicus Curiae to the second respondent within two weeks and the second respondent in turn to file the necessary affidavit within two weeks thereafter.

3. It is submitted that Ld. Amicus Curiae in his status report dated 21.11.2016 has sought for several directions and under Para 42(9) of the same has called for information with regard to (i) estimated reserves of monazite, (ii) the concentration of monazite in the feed material, (iii) the percentage of recovery of monazite, (iv) annual quantity handled and the method and final disposal of tailings for each mine from 2007 onwards till date. In the order dated 21.11.2016 passed by the Hon'ble High Court, respondents 8 and 22 have been directed to furnish the said details to the second respondent. The respondents 8 and 22 have furnished the details to the second respondent vide their letter dated 04.12.2016 which was received by the second respondent on 08.12.2016. As the details furnished by the respondents 8 and 22 requires careful checking with the available records with the concerned Units of the second respondent, there has been some delay in furnishing the reply to the same. The second respondent crave leave of the Hon'ble High Court to kindly condone the delay in filing the reply affidavit.

4. The second respondent hereby submits comments on each of the following details as under:

(i) **Estimated reserves of Monazite** & (ii) **Concentration of Monazite in the feed material**

Under the above, the respondents 8 and 22 have stated that they have not carried out any estimation for monazite as they are not permitted to handle the same and hence no information has been furnished on the estimated reserves of Monazite. However, they have furnished the total quantity of monazite rich tailings for the period from 2007 to 2016 as 80,725.05 M.T.(page no. 16 & 17 of their letter dated 04.12.2016). The respondents further have stated that they have never personally assessed the Monazite content in the feed material but provided the data based on the AMD's (Atomic Minerals Directorate for Exploration and Research – a Unit of the second respondent) report of the second respondent and furnished the percentage of monazite content with respect to each of their mine numbering 34 specifically given in the tabular format (page nos. 9 to 13 of their letter dated 04.12.2016). Further in page number 14, they have furnished the total ROM (Run of Mine) collected from each of their mine numbering 34 (page no. 14 to 16).

To the above, the second respondent states that based on the above data furnished by the respondents 8 & 22; approx. quantity of monazite computed is furnished in the following tabular format.

टी.जी. रवीन्द्रन/T.G. Raveendran
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भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg,
मुंबई/Mumbai-400 001

Production data of ROM and grade of Monazite in different ML areas as per the information provided by respondents 8 & 22 viz. M/s V.V. Mineral vide letter dated 04.12.2016					
Sl. No.	G.O/ Proc. No/ Date/ Village & Extent	AMD Exploration Details / Period of Investigation	% of monazite	Total ROM collected from the mine from 2007 till date	Approx. quantity of monazite (MT) (computed by R2)
1	36.42 Ha	1983-84	0.0513	1214000	622.8
2	2.49.0 Ha	1983-84	0.0513	347000	178.0
3	4.51.0 Ha	1983-84	0.03	470000	141.0
4	4.80.0 Ha	1983-84	0.03	455000	136.5
5	2.47.0 Ha	1983-84	0.0513	177000	90.8
6	5.00.0 Ha	1983-84	0.03	385000	115.5
7	2.29.0 Ha	1983-84	0.0513	150300	77.1
8	3.38.0 Ha	1983-84	0.0513	556000	285.2
9	5.00.0 Ha	1983-84	0.03	252000	75.6
10	4.09.5 Ha	1977-78	0.11	412300	453.5
11	3.78.5 Ha	1977-78	0.11	300000	330.0
12	4.06.5 Ha	1983-84	0.0513	691000	354.5
	0.96.0 Ha	1983-84	0.0513	88000	45.1
	4.00.0 Ha	1983-84	0.0513	90000	46.2
	3.01.5 Ha	1983-84	0.0513	78000	40.0
16	2.03.0 Ha	1977-78	0.11	170000	187.0
17	1.15.5 Ha	1983-84	0.03	142000	42.6
18	121.41 Ha	1983-84	0.03	270000	81.0
19	3.08.5 Ha	1977-78	0.11	220000	242.0
20	2.22.5 Ha	1977-78	0.11	228000	250.8
21	3.07.9 Ha	1977-78	0.11	256500	282.2
22	0.70.0 Ha	1997-98	1.39	6000	83.4
23	2.42.0 Ha	1997-98	1.39	32000	444.8
24	4.06.0 Ha	1991	0.02	654000	130.8
25	4.77.5 Ha	1977-78	0.11	140000	154.0
26	9.00.0 Ha	1983-84	0.03	690000	207.0
27	0.83.0 Ha	1983-84	0.0513	146000	74.9

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परमाणु ऊर्जा विभाग / Department of Atomic Energy
अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg,
मुंबई / Mumbai-400 001

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28	2.19.0 Ha	1983-84	0.0513	79000	40.5
29	3.35.8 Ha	1977-78	0.11	145000	159.5
30	3.70.5 Ha	1977-78	0.11	136000	149.6
31	3.47.0 Ha	1983-84	0.0513	292000	149.8
32	4.98.0 Ha	1983-84	0.03	360000	108.0
33	7.86.5 Ha	1983-84	0.0513	146000	74.9
34	36.66.5 Ha	1991	0.02	110000	22.0
	Total			**9888100**	**5876.6**

Further to the above, the respondents 8 & 22 have furnished the quantity of tailings and percentage of monazite in the said tailings in page number 16 and 17 of their letter dated 04.12.2016 as under:

Quantity of Monazite rich tailings stored			
Year	Quantity of tailings in Te	% of monazite in tailings	Total quantity of monazite (MT) (computed by R2)
2007	2397.5	23.04	552.4
2008	4167.5	22.84	951.9
2009	4681.5	23.97	1122.2
2010	4433	30.28	1342.3
2011	4406.55	30.84	1359.0
2012	10964	31.98	3506.3
2013	10995	28.05	3084.1
2014	15262	30.17	4604.5
2015	13643	29.26	3991.9
2016	9775	30.15	2947.2
Total	**80725.05**		**23461.7**

It is submitted that the data provided by the said respondents 8 & 22 regarding concentration of monazite in the feed material is in accordance with the information submitted to AERB (Atomic

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव / Under Secretary
भारत सरकार / Government of India
परमाणु ऊर्जा विभाग / Department of Atomic Energy
अणुशक्ति भवन / Anushakti Bhavan
छ.शि.म. मार्ग / C.S.M. Marg.
मुंबई / Mumbai 400 001

Energy Regulatory Board -constituent wing of the second respondent) in their licence applications and periodical Health Physics Report. However, AERB does not carry out any independent assessment of the monazite content in raw material. AERB ensures that the radiation level prevailing in the mining areas does not get enhanced due to backfilling the mined out sites, which are verified during inspections. However, regarding the total quantity of ROM furnished by the respondents 8 & 22, they may be put to strict proof for the same and further the State Government may also confirm the correctness of the total ROM quantity.

Based on the data furnished by the respondents, it is seen that the data on grade of monazite in the mining lease areas with reference to AMD's reports vis-à-vis the monazite resources is computed as **5876 M.T.** covering 34 mining lease areas of the respondents 8 & 22 whereas the total quantity of monazite computed based on the data submitted by the respondents 8 & 22 regarding quantity of tailings from 2007 to 2016 is **23,461 M.T. Hence there is a mismatch as seen from the above regarding computed monazite resource. Hence the respondents 8 & 22 have to clarify on the same. However, regarding the total quantity of ROM furnished by the respondents 8 & 22, they may be put to strict proof for the same. Further the state Government and Indian Bureau of Mines (IBM) may also confirm the correctness of the total ROM quantity.**

(iii) Percentage of Recovery of Monazite

Under the above, the respondents 8 & 22 have stated that they do not recover any monazite in any of their processes and do not recover, extract, store or export monazite. Further they have stated that they have never done so and store only monazite rich tailings in a trench and hence there is no recovery of monazite.

To the above, it is submitted that the second respondent does not have any information of recovery of monazite by the said respondents 8 & 2. As already stated in our previous counter affidavit and additional second affidavit, as a Policy decision, the second respondent has not permitted any private players like respondents 8 & 22 to crack monazite. However, the said respondents may be put to strict proof of the same.

(iv) Method and Annual quantity handled and disposal of tailings from each mine from 2007 till date.

Under the above, the respondents 8 and 22 have furnished the ROM (Run of Mine) details of each of their mines numbering 34, totalling 98,88,100 MT (ninety eight lakhs eighty eight thousand one

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव/Under Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.शि.म. मार्ग/C.S.M. Marg,
मुंबई/Mumbai-400 001

39.

hundred only). Further they have also furnished the quantity of tailings as 80,725.05 MT and the corresponding percentage of monazite rich tailings from 2007 to 2016.

Regarding disposal of tailings, they have furnished the method of handling of minerals and separation of tailings in para 2(c)(i) to (vi) – page no. 7 of their letter dated 04.12.2016.

To the above, as regards the method of disposal of tailings as provided by them is concerned, it is submitted that the same is in accordance with the recommendations of AERB a regulatory Body under Government of India. However, with regard to quantity of monazite enrich tailings stored, AERB has data only from 2010 onwards as the formal licensing under Atomic Energy (Radiation Protection) Rules, 2004 was started in 2009 consequent to the Gazette Notification. ~~A copy each of the Annual Health Physics reports submitted by them to AERB is filed herewith~~. The data provided by them on the quantity of monazite enriched tailings stored since 2010 is in agreement with the data furnished in the Health Physics report. However, it may kindly be seen that AERB does not carry out any material accounting of the tailings. The role of AERB is limited only to radiological safety considerations which include availability of AERB approved Radiological Safety Officer, periodic radiological monitoring of the workplace and assessment of radiological exposure due to handling and storage of monazite enriched tailings.

Reply

5. It is submitted that the counter affidavit, additional affidavit, second additional affidavit already filed by the second respondent may be read as part and parcel of this reply affidavit as well.

6. It is submitted that the delay in filing the reply affidavit is neither willful, wanton nor deliberate. The delay is purely on account of above said bonafide reasons and not on any other reasons. Hence it is prayed that the delay in filing this reply affidavit may be condoned and the affidavit be taken on record and thereby render justice.

टी.जी. रवीन्द्रन/T.G. Raveendran
अवर सचिव/Under Secretary
भारत सरकार/Government of India
परमाणु ऊर्जा विभाग/Department of Atomic Energy
अणुशक्ति भवन/Anushakti Bhavan
छ.रि.मा. मार्ग/C.R.M. Marg
मुंबई/Mumbai - 400 001

Solemnly affirmed at Mumbai
on this 5th day of January 2017 and
signed his name in my presence.

NOTARY
R. S. KAKAD
GREATER MUMBAI
(MAHARASHTRA)
Regd. No. 10320
Expiry Date
24-10-2018
GOVERNMENT OF INDIA

BEFORE ME

BEFORE ME

R. S. KAKAD
B.A., LL.M., A.D.R.
ADVOCATE HIGH COURT &
NOTARY GOVT. OF INDIA
26/1823, 1st FLR., SAMADHAN CHS. LTD.
ABHYUDAYA NAGAR, KALCHOWKI,
MUMBAI - 400 033

5 JAN 2017

This document is noted
at Serial No. 35 of 2017
in the Notarial Register No. 1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Twenty Seventh day of January Two Thousand Seventeen

PRESENT

THE HON'BLE MR.SANJAY KISHAN KAUL THE CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE M.SUNDAR

WP(MD) Nos.19755, 19778, 19715 & 19716 of 2016

C.CHANDRESAN [PETITIONER IN WP (MD)19755/2016]
MANAGING PARTNER,
M/S.INDUSTRIAL MINERAL COMPANY,
NO.7, M.L.THERI ROAD,
KEERAIKARAN THATTU,
MAHADAVENKULAM, THISAYANVILAI POST,
RADHAPURAM TALUK, TIRUNELVELI DISTRICT.

M/S.BEACH MINERAL COMPANY [PETITIONER IN WP (MD)19778/2016]
PRIVATE LTD, 132, TIRUCHENDUR ROAD
KUTTAM, RADHAPURAM TALUK,
TIRUNELVELI DISRICT,
REP BY ITS MANAGER M.K.BHAZITH.

M/S.TRANSWORLD GARNET [PETITIONER IN WP (MD)19715/2016]
INDIA PRIVATE LIMITED
REP BY ITS GENERAL MANAGER,
STEPHEN DAVID,
KARICHUTHU UVARI,
RADHAPURAM TALUK,
TIRUNELVELI DISTRICT.

M/S.V.V.MINERAL [PETITIONER IN WP (MD)19716/2016]
REP BY ITS MANAGER
C.SAKTHI GANAPATHI
KEERAIKARANTHATTU (VIA)
THISAYANVILAI-627 657
TIRUNELVELI DISTRICT.

1. THE DISTRICT COLLECTOR [1 & 2 RESPONDENTS IN WP (MD)19755/2016]
TIRUNELVELI DISTRICT.

2. THE BLOCK DEVELOPMENT OFFICER
RADHAPURAM PANCHAYATH UNION,
RADHAPURAM, TIRUNELVELI DISTRICT.

1 THE INSPECTOR OF PANCHAYAT [1 & 2 RESPONDENTS
THE DISTRICT COLLECTOR, IN WP (MD)19778/2016]
TIRUNELVELI DISTRICT.

THE COMMISSIONER,
RADHAPURAM PANCHAYATH UNION,
RADHAPURAM, TIRUNELVELI DISTRICT.

THE INSPECTOR OF PANCHAYAT [1 TO 3 RESPONDENTS
THE DISTRICT COLLECTOR, IN WP (MD)19715/2016]
TIRUNELVELI DISTRICT.

THE COMMISSIONER,
OF PANCHAYAT UNION,
RADHAPURAM, TIRUNELVELI DISTRICT.

THE BLOCK DEVELOPMENT OFFICER,
RADHAPURAM, TIRUNELVELI DISTRICT.

2 THE INSPECTOR OF PANCHAYAT [1 TO 4 RESPONDENTS
THE DISTRICT COLLECTOR, IN WP (MD)19716/2016]
TIRUNELVELI DISTRICT.

THE COMMISSIONER,
OF PANCHAYAT UNION,
RADHAPURAM, TIRUNELVELI DISTRICT.

COMMISSIONER OF PANCHAYAT UNION,
VALLIYOOR, TIRUNELVELI DISTRICT.

3 THE BLOCK DEVELOPMENT OFFICER,
RADHAPURAM, TIRUNELVELI DISTRICT.

Writ Petitions under article 226 of the Constitutions of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i)Issue a Writ of Certiorarified Mandamus or any other writ or direction in the nature of writ of Certiorarified Mandamus and calling for the records relating to proceedings in ROC A8/3999/2016 dated 4.10.2016 on the file of the District Collector, Tirunelveli, 1st respondent herein in respect of the Mineral Separation Plants of M/s.Industrial Mineral Company Ltd, in SF No.167/1A2B, 167/1A3A, 227/3B1C, 3B2C, 230/1C, 231/1,2,3 231/1,2,3, 151/2,3,4,5A,151/1A1, 1A1A, 151/1A1BA at Vijayapathy Village, Radhapuram Taluk, Tirunelveli District and quash the same (in WP (MD)19755/2016):

(ii)issue a Writ of Certiorario or any other appropriate writ or order or direction in the nature of writ by calling the records relating to the impugned order passed by the 1st Respondent made in Roc.A8/3999/2016, dated 04.10.2016 and quash the same (in WP(MD). 19778/2016);

(iii)issue a Writ of Certiorari or any other order, direction in the nature of a Writ of Certiorari to call for the records on the file of the 1st Respondent relating to the impugned order bearing No.A8/3999/2016 dated 04.10.2016, quash the same (in WP(MD). 19715/2016) and

(iv)issue a Writ of Certiorari or any other order, direction in the nature of a Writ of Certiorari to call for the records on the file of the 1st Respondent relating to the impugned order bearing No.A8/3999/2016 dated 04.10.2016, quash the same (in WP (MD).19716/2016) respectively.

Order :These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.S.SIVA THILAKAR Advocate for the petitioner in (WP(MD)19755/2016); and of M/S.M.SURESHKUMAR Advocate for the petitioner in (WP(MD)19778/2016); and of M/S.SRINATHA SRIDEVAN Advocate for the petitioner in (WP(MD)19715 & 19716/2016)and of MR.R.MUTHUKUMARASAMY ADVOCATE GENERAL Assisted by MR.M.K.SUBRAMANIAN GOVT.PLEADER & MR.T.N.RAJAGOPALAN SPL.GOVT.PLEADER on behalf of the Respondents in all the petitions the court made the following order:-

The learned counsel for the petitioners seek further time to file rejoinder. List on 9.2.2017.

2. We modify the interim orders to the extent that the same would not entitle the petitioners to run the units in the meantime.

3. We may note that despite the aforesaid order, the learned counsel for the petitioners continue to make elaborate submissions on the consequences of the unit not working. It is, however, the stand of the learned Advocate General that in most of the cases actually licenses do not exist and the so-called renewal has been obtained in collusion, because the substratum is first the license before the renewal can take place. In one of the cases, it is his contention that though the licence exists, it is for a 85 HP machine, while at site were found erected machines of over 300 HP.

4. It is sought to be contended by the learned counsel for the petitioners that they have licenses and are willing to produce them before the District Collector. It is also their say that they had not paid renewal charges, except as claimed by the petitioner in

W.P.(MD)No.19715 of 2016, and they are willing to pay the same.

5. It is agreed that in this behalf the petitioners may approach the District Collector with all the material which is with them in respect of holding a valid license and it is for the Collector to examine the same. If they hold a valid license and the issue is limited to the payment of renewal fee, the same would naturally be examined by the District Collector. We give liberty to the Collector to permit functioning of the units, in case he finds that the original license is there and renewal fee is paid up to date or tendered.

-sd/-
27/01/2017

/ TRUE COPY /

Fr VLR Chennai 24.1.17
Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT.

2 THE BLOCK DEVELOPMENT OFFICER
RADHAPURAM PANCHAYATH UNION, RADHAPURAM,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF PANCHAYAT
AND THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT, TIRUNELVELI.

4 THE COMMISSIONER,
RADHAPURAM PANCHAYATH UNION,
RADHAPURAM, TIRUNELVELI DISTRICT.

5 THE COMMISSIONER OF PANCHAYAT UNION,
VALLIYOOR, TIRUNELVELI DISTRICT.

C.C. to M/S.S.SIVA THILAKAR Advocate on payment of necessary charges

C.C. to M/S.M.SURESHKUMAR Advocate on payment of necessary charges

Cv 0036275

C.C. to M/S.SRINATHA SRIDEVAN Advocate on payment of necessary charges

The Government Pleader, High Court, Madras - 104.

The Special Government Pleader, High Court, Madras - 104.

Order

in

WP(MD).19755, 19778, 19715 & 19716/2016

Date :27/01/2017

From 26.2.2001 the Registry is issuing certified copies of the Interim Orders in this format
VS 30.01.2017 (I.T)

Cv 0036276

ABSTRACT

Industries – W.P.No.1592 of 2015 filed by Thiru G. Victor Rajamanickam and W.A.Nos.1168 and 1169 of 2015 filed by the Government of Tamil Nadu – Interim orders passed by the Hon'ble First Bench of Madras High Court on 11.1.2017 – Formation of Special Team for estimation of the stock of Beach Sand Minerals kept in various places in Thoothukudi, Tirunelveli and Kanniyakumari Districts – Appointment of Thiru.Satyabrata Sahoo, I.A.S., in the place of Thiru Mahesan Kasirajan, I.A.S., as Head of Special Team – Orders – Issued.

Industries (MMD.1) Department

G.O.(Ms) No.41

Dated:7.4.2017
திருவள்ளுவர் ஆண்டு 2048,
துன்முகி வருடம் பங்குனி 25ம் நாள்

Read:

1. Orders of Hon'ble High Court of Madras dated 28.1.2016 in W.P.No.1592 of 2015 filed by Thiru G.Victor Rajamanickam.
2. Orders of Hon'ble High Court of Madras dated 11.1.2017 in W.P.No.1592 of 2015 and in W.A.Nos.1168 and 1169 of 2015 filed by the Government.
3. G.O.(Ms) No.29 Industries (MMD.1) Department dated 25.3.2017.
4. From Thiru Mahesan Kasirajan, I.A.S., Commissioner of Sugar, letter dated 31.3.2017

****

ORDER:

In the Government order third read above, orders were issued among others for the appointment of Thiru Mahesan Kasirajan, I.A.S., Commissioner of Sugar as head of Special Team for assessment of stocks

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of Beach Sand Minerals in various places of Thoothukudi, Tirunelveli and Kanniyakumari Districts under section 23 (B), 24 of Mines and Minerals (Development and Regulation) Act,1957 in accordance with the orders of Hon'ble High Court of Madras dated 11.1.2017 in W..No.1592 of 2015 and in W.A.Nos.1168 and 1169 of 2015.

2. In the letter fourth read above, Thiru Mahesan Kasirajan, I.A.S., has stated of certain personal reasons for his inability to effectively take up this assignment.

3. The Government, after careful examination, decided to relieve Thiru Mahesan Kasirajan, I.A.S., as head of Special Team constituted in the Government orders third read above and hereby nominates Thiru Satyabrata Sahoo, I.A.S., Chairman and Managing Director, Tamil Nadu Industrial Investment Corporation (TIIC), Chennai (Batch:1997) in the place of Thiru Mahesan Kasirajan, I.A.S., Commissioner of Sugar. Thiru Satyabrata Sahoo, I.A.S., Chairman and Managing Director, Tamil Nadu Industrial Investment Corporation will hereafter undertake the assessment of stocks of Beach Sand Minerals in various places of Thoothukudi, Tirunelveli and Kanniyakumari Districts under section 23 (B), 24 of Mines and Minerals (Development and Regulation) Act, 1957 as the Head of Special Team constituted in the Government orders third read above.

(BY THE ORDER OF GOVERNOR)

: ATULYA MISRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
Thiru Satyabrata Sahoo, I.A.S.,
Chairman and Managing Director ,
Tamil Nadu Industrial Investment Corporation,
692, Anna Salai, Nandanam,
Chennai - 600 035.

Thiru Mahesan Kasirajan, I.A.S.,
Commissioner of Sugar,
690, Anna Salai,
Chennai - 600 035

The Secretary,
Ministry of Mines,
Government of India,
Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi - 110 001.

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The Secretary,
Department of Atomic Energy,
Anushakti Bhavan, Chatrapati Shivaji Maharaj Marg,
Mumbai – 400 001.

The Principal Secretary/Commissioner of Survey and Settlement,
Chepauk, Chennai – 600 005.

The Chief Commissioner of Customs and Excise and Service Tax,
26/1, Mahatma Gandhi Road,
Chennai – 600 032.

The Director General of Police, Chennai 600 004.

The Commissioner of Geology and Mining, Guindy, Chennai – 32

Shri Ramesh Kumar,
Head, Beach Sand and Off-shore Investigations,
Mining Regulatory, AMD, Begumpet, Hyderabad – 500 016.

Shri Soumen Sinha,
Scientific Officer – F,
Atomic Energy Regulatory Board,
Department of Atomic Energy,
Anushakti Bhavan, Chhatrapati Shivaji Maharaj Marg, Mumbai – 400 001.

The District Collector, Tirunelveli

The District Collector, Thoothukudi,

The District Collector, Kanniykumari.

The Assistant Commissioner of Customs,
Tuticorin/ Tirunelveli Districts.

// Forwarded by order //

Section Officer

7/4/17

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✓ **Assessment on the Monazite Tailings stored in Tirunelveli and Thoothukudi Districts:**

In compliance to the orders passed by the Hon'ble First Bench of Madras High Court on 02.11.2017 in the Suo – Motu PIL W.P.No. 1592 of 2015 etc batch cases, a joint inspection was carried out by the officials of Atomic Minerals Directorate, Hyderabad and Indian Bureau of Mines, Chennai in the presence of officials of Atomic Energy Regulatory Board, Mumbai and Second Level Team Heads for assessment of Monazite enriched tailings said to be stored in the following areas and for collection of samples through Auger drilling.

Sl. No	Name of the Lessee / Others	Village	Taluk	District	Date of Inspections Conducted
1.	Tvl. V.V.Mineral	Tiruvembalapuram	Radhapuram	Tirunelveli	08.11.2017 & 09.11.2017
2.	Tvl. Beach Minerals Sands Company	Kuttam	Radhapuram	Tirunelveli	09.11.2017 & 10.11.2017
3.	Tvl. Beach Minerals Sands Company	Arasoor	Sathankulam	Thoothukudi	10.11.2017
4.	Tvl. Miracle Sands and Chemicals	Mapillai oorani	Thoothukudi	Thoothukudi	10.11.2017
5.	Tvl. Miracle Sands and Metals	Mela Arasaradi	Ottapidaram	Thoothukudi	10.11.2017

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2) The designated site wherein the reported Monazite tailings said to be stored in Thiruvambalapuram Village was inspected by a team of officials from the Atomic Minerals Directorate, Hyderabad, Indian Bureau of Mines, Chennai, Atomic Energy Regulatory Board, Mumbai along with the State and District officials on 08.11.2017 & 09.11.2017. The representatives of the Lessee company / Plant owner were also present at the time of joint inspection. Auger drilling was carried out in the designated site at Thiruvambalapuram Village and 10 bore holes were made in the site for collection of samples said to be enriched with Monazite tailings. A total number of 42 samples have been collected from the 10 bore holes made in the designated site at Tiruvembalapuram Village. As requested by the lessee company in their letter dated. 08.11.2017, ¼th of the portion of samples collected from each bore holes were handed over to the representative of the lessee company in the presence of the officials and the same has been videographed.

3) Another joint inspection was carried out in Kuttam Village on 09.11.2017 & 10.11.2017 and the designated site located in S.F.No.670 wherein the reported Monazite tailing said to be stored was identified and only one sample was collected from the area in the presence of the representative of the Lessee company / Plant owner.

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As requested by the representative of the Lessee company, a portion of the sample has been handed over to him. All the 43 samples collected by the AMD from the above said designated sites have been sent for chemical analysis by the Atomic Minerals Directorate.

4) Another joint inspection was carried out in Arasoor, Mappilaioorani and Mela Arasadi Villages in Thoothukudi Districts on 10.11.2017 and the designated sites wherein the reported Monazite tailing said to be stored by Tvl. Beach Minerals Sands Company, Tvl. Miracle Sands and Chemicals and Tvl. Miracle Sands and Metals were identified and seven samples were collected from the areas in the presence of the representative of the Lessee company / Plant owner. A portion of the sample collected from each site has been handed over to the representative of the Lessee company / Plant owner. All the 7 samples collected by the AMD from the above said designated sites have been sent for chemical analysis by the Atomic Minerals Directorate.

5) Thiru.K.Ramesh Kumar, Scientific Officer – H+, Head, Beach Sand and Offshore Investigations Group, Atomic Minerals Directorate, Hyderabad in letter No.AMD-1/14/2017- BSI dated: 24.11.2017 furnished report on the chemical analysis of the 50 samples collected

from the designated sites wherein reported Monazite enriched tailings are stored in Tirunelveli and Thoothukudi Districts.

A. <u>Monazite tailings stored at Thiruvembalapuram Site</u>

The report submitted by AMD reveals that the Thiruvembalapuram site of Tvl.V.V.Minerals measures 217m length and 69m width separated from the surrounding area by a stone wall. Drilling was carried out by hand auger and Conrad Bunka on a grid of approximately 80m length and 20m width. A total number of 10 bore holes were drilled to an average depth of 4.10m and 42 samples at each 1m of drilling depth were generated. Monazite equivalent analysis for each of the 42 samples was carried out and the bore hole average has been computed. The details are as follows.

S.No	Bore Hole No.	No.of. Samples	Average Percent Monazite equivalent
1	TVBM/BH/1	5	**23.47**
2	TVBM/BH/2	5	**25.80**
3	TVBM/BH/3	4	**10.56**
4	TVBM/BH/4	3	**21.33**
5	TVBM/BH/5	3	**0.26**
6	TVBM/BH/6	4	**21.00**
7	TVBM/BH/7	5	**17.20**
8	TVBM/BH/8	5	**15.25**
9	TVBM/BH/9	4	**18.06**
10	TVBM/BH/10	4	**21.78**
Average			**17.47**

The report further reveals that the tonnage of materials at the site is computed as 1,35,135 metric tonnes (217 x 67 x 4.10 x 2.267) containing **23,608 metric tonnes of monazite** at an average grade of 17.47 %.

B. <u>Monazite tailings stored at Kuttam Site</u>

The report reveals that Kuttam site of Tvl. Beach Minerals sands company is a trench type structure with dimensions of 8m length, 2.2m width and 1.9m depth. One auger hole upto 1.90m depth was drilled and one bore hole composite sample generated has been designated as TTK/MT/KTM/1 and analysed and having **0.6% monazite equivalent.**

C. <u>Monazite tailings stored at Arasoor Site</u>

The report reveals that Arasoor site of Tvl.Beach Minerals sand company is a well like structure measuring 6.6 m length, 5.8m width and 11m depth. 11 bags of 2 tonnes each are stored in the site and a composite samples from 11 bags were generated and the sample designated as TTK/MT/ASR/1 analysed is having 0.46 % monazite equivalent. Based on this the monazite content in the 11 Bags would be 0.10 metric tonnes.

D. Monazite tailings stored at Mappillaioorani Site

a) The report reveals that the Mappillaioorani site of Tvl.Miracle Sands and Chemicals has monazite tailings at two places. One site is a trench like structure measuring 12m length, 3.7m width and 3m depth. Samples were collected and designated as TTK/MT/MAPO/PIT and analysed and having **7.8% monazite equivalent**. This trench has 75 metric tonnes material which translates to **5.85 metric tonnes monazite.**

b) The other site is open heap having dimensions of 8m length, 2m width and 2m height and the samples generated has been designated as TTK/MT/MAPO/OH1 analysed and having **5.5% monazite equivalent.** This dump has 160 metric tonnes material which translates to **8.80 metric tonnes monazite.**

E. Monazite tailings stored at Mela Arasaradi Site

The report reveals that Monazite tailings are stored at two locations at Mela Arasaradi site of Tvl. Miracle Sands and Chemicals. One site (northern side dump) is having 16m length, 13m width and 2m depth and other site (southern side dump) is having 19m length, 11m width and 2m depth. One auger hole each was drilled in the dumps and two samples from each holes were collected in northern

side dump and designated as TTK/MT/MELA/BH1/1 and TTK/MT/MELA/BH1/2 analysed and having **5.0 % and 16.0% monazite equivalent** respectively. The samples collected from the southern side dump are designated as TTK/MT/MELA/BH2/1 and TTK/MT/MELA/BH2/2 and analysed and having **3.90% and 4.80 monazite equivalent.**

6) Meanwhile, Tvl.V.V.Mineral filed W.P.No. 29826/2017 before the Hon'ble Madras High Court with a prayer to issue an interim direction directing the 3rd Respondent (Special Team Head) to take samples of minerals at the petitioner's mineral site at Thiruvambalapuram in Tirunelveli District in the presence of the petitioner and to draw 3 samples wherever samples are taken and seal the samples in the petitioner's presence, and have all such samples sealed with the counter signature of the representatives of the petitioner and to hand over one counter sample to the petitioner, and one to the respondent, while retaining one sample with the 3rd respondent and send the sample for testing:

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Super-Checks and Collection of samples in the Monazite enriched tailings storage areas:-

7) It was decided to make Super-checks inspection in the designated areas wherein, the reported Monazite enriched tailings are stored in Tirunelveli and Thoothukudi Districts. Accordingly, a joint inspection was carried out by the Special Team Head in the designated areas on 18.12.2017 & 19.12.2017 at Thiruvambalapuram and Kuttam Villages in Radhapuram Taluk, Tirunelveli District along with the officials of Atomic Minerals Directorate, Indian Bureau of Mines, Atomic Energy Regulatory Board, Geology and Mining, Revenue and Survey Departments.

8) The designated site at Thiruvambalapuram Village wherein Monazite enriched tailings stored by Tvl. V.V.Mineral was inspected on 18.12.2017 & 19.12.2017 and 14 Auger Bore holes were made by the officials of Atomic Minerals Directorate in the designated site and a total number of 59 samples have been collected. Each sample has been separated into five portions and counter signatures were obtained from the representative of the company and the officials of Central and State Government. One portion of the sample collected from all the 59 samples have been handed over to the representative

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of Tvl. V.V.Mineral at the designatec site on 19.12.2017 in the presence of the State and Central Government Officials. Two portions of all the 59 samples (118) have been handed over to the representatives of the Atomic Minerals Directorate for chemical analysis. Further, the remaining two portions of 59 samples (118) have been handed over to the Deputy Director of Geology and Mining, Tirunelveli for future and record purpcse.

9) The designated site wherein Monazite enriched tailings said to be stored by Tvl.Beach Minerals Sands Company in Kuttam Village was inspected on 19.12.2017 and one sample has been collected by the officials of Atomic Minerals Directorate by Auger Drilling. The sample has been separated into five parts and one portion of the sample has been handed over to the representative of Tvl.Beach Minerals Sands Company and two portions have been handed over to Atomic Minerals Directorate for chemical analysis. Further, the remaining two portions have been handed over to the Deputy Director of Geology and Mining for record purpose.

10) The designated site wherein Monazite enriched tailings said to be stored by Tvl.Beach Minerals Sands Company at a dry unused open well in Arasoor Village was inspected on 19.12.2017 and one sample was collected from the 11 bags kept in that area. Further, two samples

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were collected at the Monazite tailing storage areas of Tvl. Miracles Sand and Chemicals at Mappillaioorani on 20.11.2017. Further, four samples were collected at the Monazite tailing storage areas of Tvl. Miracles Sands and Metals at Mela Arasadi village of Ottapidam Village, Thoothukudi District on 20.11.2017. Each sample has been separated into five portions and counter signatures were obtained from the representative of the company and the officials of Central and State Government. One portion of the sample collected from all the 7 samples were handed over to the representatives of the respective companies at the designated site on 19.12.2017 & ~~20.11.2017~~ 20.12.2017 in the presence of the State and Central Government Officials. Two portions of all the 7 samples were handed over to the representatives of the Atomic Minerals Directorate for chemical analysis. Further, the remaining two portions were handed over to the Deputy Director of Geology and Mining, Thoothukudi for future and record purpose.

11. Thiru.K.Ramesh Kumar, Scientific Officer - H+, Regional Director, South Central Region, Atomic Minerals Directorate for Exploration and Research in his letter No. AMD-1/14/2017-BSOI dated 12.03.2018 has furnished report on the analytical results of the samples collected at the time of super checks made from 18.12.2017 to ~~20.17.2017~~ 20.12.2017 in Tirunelveli and Thoothukudi Districts. A copy of report dt.12.3.18 received from the AMD is enclosed in Annexure-XXXXI

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58.

A. <u>Monazite tailings stored at Thiruvembalapuram Site</u>

The report submitted by AMD on the Monazite tailings samples collected at the time of super checks reveals that a total number of 14 bore holes were drilled upto depth of 3.5m to 5.0m and 59 samples generated. The Monazite equivalent analysis for each of the 59 samples was carried out as per the standard procedure and the bore hole average was computed. The details are as follows.

S.No	Bore Hole No.	No.of. Samples	Average Percent Monazite equivalent
1	TNV/MT/TVBM/BH/11	6	18.55
2	TNV/MT/TVBM/BH/12	5	25.20
3	TNV/MT/TVBM/BH/13	4	4.77
4	TNV/MT/TVBM/BH/14	3	0.19
5	TNV/MT/TVBM/BH/15	4	19.45
6	TNV/MT/TVBM/BH/16	4	17.75
7	TNV/MT/TVBM/BH/17	5	14.40
8	TNV/MT/TVBM/BH/18	4	13.57
9	TNV/MT/TVBM/BH/19	4	21.29
10	TNV/MT/TVBM/BH/20	4	15.03
11	TNV/MT/TVBM/BH/21	4	12.97
12	TNV/MT/TVBM/BH/22	5	26.82
13	TNV/MT/TVBM/BH/23	4	29.50
14	TNV/MT/TVBM/BH/24	3	21.33
Average			17.20

The report further reveals that the super check samples confirmed the earlier results and the tonnage of Monazite at the site is estimated to be similar to the earlier reported quantum of **23,608 metric tonnes of monazite.**

B. <u>Monazite tailings stored at Kuttam Site</u>

The report reveals that one bore hole composite sample generated and designated as TNV/MT/KTM/2 and analysed and having **0.72% Monazite equivalent.**

C. <u>Monazite tailings stored at Arasoor Site</u>

The report reveals that, one representative sample from the 11 bags stored in the Arasoor site was generated and the sample designated as TTK/MT/ASR/2 analysed and having 0.39% Monazite equivalent.

D. <u>Monazite tailings stored at Mappillaioorani Site</u>

The report reveals that one sample was generated and designated as TTK/MT/MAPO/PIT/2 analysed and having **7.1% monazite equivalent**. Another sample was generated in a open head dump and designated as TTK/MT/MAPO/OH/2 analysed and having **7.0% monazite equivalent.**

E. Monazite tailings stored at Mela Arasaradi Site

The report reveals that two samples were generated from the Northern Dump and designated as TTK/MT/MELA/BH3/1 and TTK/MT/MELA/BH3/2 analysed and having 12% and 14% Monazite equivalent respectively. The two samples generated from the southern Dump were designated as TTK/MT/MELA/BH4/1 and TTK/MT/MELA/BH4/2 analysed and having **5.5% and 3.33% monazite equivalent** respectively.

Comparative Statement of Analytical Reports.

A comparison of the analytical results of samples collected from the Monazite enriched tailings during the Phase – I (from 8.11.2017 to 10.11.2017) and Phase – II (from 18.12.2017 to 20.12.2017) in Tirunelveli and Thoothukudi Districts are tabulated as follows.

S.No	Area	Analytical Results of samples collected Phase – I		Analytical Results of samples collected Phase – II	
		Avg. % Monazite equivalent	No. of Samples	Avg. % Monazite equivalent	No. of Samples
1	Thiruvembalapuram	17.47	42	17.20	59
2	Kuttam	0.60	1	0.72	1
3	Arasoor	0.46	1	0.39	1
4	Mappillaioorani	7.80	1	7.10	1
		5.50	1	7.00	1
5	Mela Arasaradi	5.00	2	12.00	2
		16.00	2	14.00	2

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The report reveals that the analytical results of the Monazite enriched tailings collected during the Phase – I and Phase – II (Super checks) are similar and the estimated quantum of Monazite at the above said designated sites are also of similar tonnage.

Accounting for Monazite tailings

a. As per Rule 3 of Atomic Energy (Working of Mines, Minerals and Handling of Prescribed Substances) Rules, 1984, No person shall mine, mill, process and / or handle any ore, Mineral or other materials from which one or more of the prescribed substances can be extracted without obtaining a license under the Rules.

b. According to the license conditions, records of quantity and Monazite content of the raw material, product and Monazite enriched tailings shall be maintained by the Mining companies.

c. Tvl. V.V.Minerals in their letter dated 18.8.2017 addressed to the District Collector, Tirunelveli stated that the details of

Monazite rich tailing stored in Thiruvembalapuram (Authoor Plant Tailings Storage Yard) is **80,725 metric tonnes which contain Monazite and other heavy minerals and silica waste etc.,** They have further stated that prior to 2007, they produced Garnet and Ilmenite only and did not generate any Monazite rich tailings.

d. The AMD report on the analysis of the samples collected from the Monazite enriched tailings stored at Thiruvembalapuram site in Tirunelveli District reveals that the tonnage of materials at the site is computed to be **1,35,135 metric tonnes containing 23,608 metric tonnes of Monazite** at an average grade of 17.47% in Phase – I and 17.20% in Phase – II.

e. Thus the variation in the quantum of Monazite enriched tailings declared by the plant owner and the quantity assessed by the Atomic Minerals Directorate requires clarification from the Plant owner and as well from the Atomic Minerals Directorate.

f. With regard to the monazite enriched tailing stored at Arasoor, Kuttam, Mappillaioorani and Mela Arasaradi sites, the Plant owners concerned and the Atomic Minerals

Directorate are required to furnish clarifications whether the Plant owners have obtained license under Rule 3 of the Atomic Energy (Radiation Protection) Rules, 2004 from the Department of Atomic Energy or not.

g. The authorities at AERB need to be look into the fact as to why monazite equivalent of such low concentration (e.g. 0.72% at Kuttam and 0.39% at Arasoor) need to be kept in these specific sites. Has this concentration of the monazite equivalent changed over the years because of any pilferage? Were they being properly inspected in a timely manner? Is there possibility of its being transported out without the knowledge of AERB or the authorities concerned?

h. Proper supervision by State Mines Department, AMD, Indian Bureau of Mines and AERB is a must to prevent any kind of illegality.

<u>Findings of the Special Team:-</u>

i. The total quantum of beach sand minerals stored by the Plant owners / Lease holders at various places in Tirunelveli,

Thoothukudi and Kanniyakumari Districts as assessed by the Special Team are furnished as follows:-

Sl.No	Districts	Quantum of minerals stocked (in M.T.)
1.	Tirunelvel	1,37,45,644
2.	Thoothukudi	12,09,423
3.	Kanniyakumari	5,93,613
	Total	**1,55,48,680**

ii. Whereas, the total quantum of beach sand minerals declared as stocks by the Plant owners/Lease holders in respect of the three districts are furnished as follows:-

Sl.No	Districts	Quantum of minerals declared as stocks (in M.T.)
1.	Tirunelveli	64,59,624
2.	Thoothukudi	13,91,810
3.	Kanniyakumari	7,07,300
	Total	**85,58,734**

iii. Thus, there is a massive difference to the tune of **69,89,946 MTs** between the quantum of Beach Sand Minerals assessed by the Special Team and the quantum of Beach Sand Minerals declared as stocks by the Plant owners/Lease holders

in respect of the three districts. Hence, issues related to mining, transportation of minerals and their storage require appropriate supervision. A proper system may be devised.

iv. The report submitted by AMD on the **percent Monazite equivalent** analysis of the samples collected at the time of preliminary assessments from the Godowns / Dump locations / processing plants / mining area in respect of the three Districts reveal that 87 out of 177 samples are having more than 0.25% of Monazite equivalent. During the period up to 2007, the upper limit of *"Monazite equivalent"* in export sample was 0.25%. Issues of radiation safety need to be better supervised and well-regulated.

v. The report submitted by AMD on the **percent Monazite equivalent** analysis of the samples collected at the time of super-check assessments from the Godowns / Dump locations / processing plants / mining area in respect of Tirunelveli and Thoothukudi Districts reveal that 31 out of 43 samples are having more than 0.25% of Monazite equivalent.

vi. Thus, the reports of the AMD reveal that 118 (87+31) out of 220 (177+43) samples collected record more than 0.25% of Monazite equivalent i.e. 53% of samples record more than

0.25% Monazite equivalent. This further strengthens the need to have proper and regular monitoring of radiation safety standards.

vii. The reports of the AMD further reveals that a number of finished products like Garnet, Ilmenite, Zircon etc., contain other mineral as well, in proportions of 10 to 25 %.

viii. The reports further reveals that a number of finished mineral stocks contain Monazite / Monazite equivalent much above the notified reference value. Hence, exporting and trading of all beach minerals need specific supervision especially at port levels from where they are exported. Export of monazite / monazite equivalent need proper supervision at all levels in view of its radioactive nature. Proper regulation of export of minerals containing monazite / monazite equivalents will be appropriate in view of the radioactive content of the minerals which in turn might have a bearing on the National Security, if the products fall into wrong hands.

Standard Operating Procedure (SOP) towards export policy of Beach Sand Minerals (BSM) in terms of Notification No. 26/2015-2020 dated 21.8.2018 published by Directorate General of Foreign Trade (DGFT), Ministry of Commerce, Govt. of India and published in the Gazette of India Extraordinary Part-II, Section-3, Sub - Section (ii)

Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce and Industry, Govt. of India issued Notification no: 26/2015-2020, New Delhi dated: 21.8.2018 – on export policy on Beach Sand Minerals (BSM) in Chapter 26 of Schedule 2 of ITC(HS) classification of export and import items 2018.

Export of Beach Sand Minerals - Ilmenite, Rutile, Leucoxene (Titanium bearing minerals under HSN 2614 0010, 2614 0020, 2614 0031, 2614 0039, 2614 0090), Zircon (HSN 2615), Monazite (under HSN 2612 1000, 2612 2000), Sillimanite (under HSN 2508 5031, 2508 5032, 25085039) and Garnet (HSN 2513 2030), vide the above notification have been brought under State Trading Enterprise and shall be canalised through M/s Indian Rare Earths Limited (IREL), a Government of India Undertaking. BSM permitted anywhere in the export policy will now be regulated in terms of policy under Sl. No: 98A of Chapter 26 of Schedule 2 Export policy.

Towards implementing canalisation of BSM as per the above notification, interim Standard Operating Procedure (SOP) was issued on 6th September 2018. The said SOP is amended to align with the extant policies and shall come in force with immediate effect for canalisation of export of BSM through IREL:

STANDARD OPERATING PROCEDURES :

1) All the exports of Beach Sand Minerals (BSM) to be canalised through M/s Indian Rare Earths Limited (IREL) w.e.f. 21.8.2018.
2) BSM producers / sellers desirous of exporting the Beach sand minerals shall provide Know Your Customer (KYC) documents to IREL for getting empanelled as supplier for export of BSM. The list of documents for KYC purpose is given below:

- Application for registration (in the prescribed form) (Annexure – I)
- A profile of the Company / firm, copy of Partnership Deed/Articles & Memorandum of Association, list of Partners/Directors and copy of their Permanent Account Number (PAN) Card, Ministry of Corporate Affairs (MCA) identity. Copies of passport.
- Copy of Goods & Service Tax (GST) Registration.
- Board Resolution / Letter from the partners authorizing all or any one of the directors/partners to sign the documents
- Specimen Signature of the partners/directors/proprietor duly attested by the Bank

- Copy of PAN of Company
- Copy of Annual reports along with audited balance sheet and Profit & Loss Account for immediately preceding 3(three) financial years.
- Copy of income-tax returns for the immediate previous year.
- Import Export Code (IEC) Number, if any
- A letter from the Banker indicating the performance and creditworthiness of the Company/firm and also indicating the tenure of relationship.
- Undertaking stating that the director(s)/owner or proprietor or partner (as the case may be), is/are not convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government and/or any other public sector enterprises, during the last five years.
- Undertaking stating that the business dealings has not been banned or suspended by Government of India, any Government authority connected with the line of minerals business or any of the Public Sector Undertaking (PSU) under Government.
- Any other document as deemed fit by Government of India.

(The above list of documents is exhaustive but not limited, as IREL may call for additional documents depending upon the situation).

3) The BSM producers / sellers shall have the option of extending facilitation in identification of foreign buyers for their material.
4) BSM producers / sellers desirous of exporting the Beach sand minerals shall furnish the following documents at least 30 days prior to export activity to IREL for necessary verification:
    a) Name of the mineral
    b) Letter of intent containing information pertaining to the mineral viz. quantity, quality (specification), name of the foreign buyer, price, tentative laycan (bulk shipment)/date of shipment (containerised shipment), port of loading, port of discharge, etc.
5) IREL will do due diligence of the foreign buyer through Indian Mission in the foreign buyer's country under intimation to External Relations (ER) Division of DAE. After satisfactory due diligence, further action on canalisation shall be undertaken. This

will be a one time exercise, and once the due diligence of the foreign buyer is done, the same shall be taken into consideration for future exports through canalisation. IREL may have the due diligence redone at periodic interval, if the situation so warrants.

6) Once the due diligence is done, IREL will enter into back to back contracts with the foreign buyer for FOB export of the mineral and with the respective BSM producer/seller for supply of the mineral to be exported. Multiple shipments may be made against one back to back contract between IREL and the respective BSM producer/seller and IREL and the foreign buyer as per the agreed terms and conditions of supply.

7) Upon receipt of the duly signed contract from the BSM producers / sellers(desirous of exporting BSM) for supply of the BSM under reference to IREL, duly signed contract for export of the BSM under reference from foreign buyer and payment from the foreign buyer, IREL shall ask the BSM producers / sellers to produce the following documents for necessary verification before shifting the material to the designated port for export:

   a) Monazite Test Certificate (MTC) issued by Atomic Minerals Directorate for Exploration & Research (AMD) for such consignment.
   b) All the relevant documents / permits / certificates as required for export of the said consignment
   c) Report of Petrological & Chemical Analysis of the mineral or any other analysis as deemed fit, duly certified by an Inspection agency registered under Export Inspection Council, Ministry of Commerce, Govt. of India(EIC) for quality inspection of minerals/DAE laboratory/NABL accredited laboratory.
   d) Certificate of Origin issued by authority designate
   e) Letter of indemnity – indemnifying IREL against any claims for non- receipt of export proceeds from the foreign buyer.
   f) Royalty payment receipt issued by State Government in case of BSM producers
   g) Purchase order / invoice copy in support of quantity of mineral purchased in case of any sellers

h) Copies of valid Environment Clearance(s) and Consent to Operate(CTO) documents issued by authority designate in case of BSM producers in order to ascertain the permissible production limits.

i) Copy of the licence issued by Atomic Energy Regulatory Board (AERB) under the Atomic Energy (Radiation Protection) Rules 2004 in case of BSM producers.

j) IBM Registration details of the BSM Producers/sellers as per Rule 45 of Mineral Conservation & Development Rules (MCDR)-2017.

k) Copy of latest Monthly Returns submitted under Rule 45 of MCDR – 2017.

l) Undertaking stating statutory compliances with respect to atomic minerals as applicable have been complied by the company.

m) End User Certificate from the buyer.

n) Any other document as deemed fit by Government of India.

(The above list of documents is exhaustive but not limited, as IREL may call for additional documents depending upon the situation).

(In order to ensure expeditious export, BSM producers / sellers may furnish these documents at the time of entering into an agreement with IREL for supply of BSM for export)

8) Sampling and analysis

Bulk Shipments

a) BSM producers / sellers shall make available the material to be exported at port prior to loading for sampling and analysis by IREL / Agency nominated by IREL. IREL/Agency nominated by IREL will draw seven representative samples, two each for the foreign buyer, IREL and BSM producers / sellers and one for independent agency, in presence of representative of BSM producers / sellers.

b) IREL shall have the representative sample analysed to verify the petrological & chemical analysis reports furnished by the BSM producers / sellers and also check the radioactivity levels.

Containerized Shipments

a) BSM producers / sellers shall make available the material to be exported prior to stuffing and sealing of each container at CFS for sampling and analysis by IREL / Agency nominated by IREL. IREL/Agency nominated by IREL will draw seven representative samples, two each for the foreign buyer, IREL and BSM producers / sellers and one for independent agency, in presence of representative of BSM producers / sellers. Thereafter, the container(s) shall be sealed by the Customs Department in the presence of IREL and BSM producers / sellers.

b) IREL shall have the representative sample analysed to verify the petrological & chemical analysis reports furnished by the BSM producers / sellers and also check the radioactivity levels.

9) Upon successful completion of exports, IREL shall remit payment for the BSM supplied by the BSM producers / sellers by deducting duties/taxes, all the expenses incurred by IREL for shipment of the material after receiving the same at Port of despatch and 3% of FOB value from the net amount received from the foreign buyer against the said consignment to ccver canalisation expenses. The flow diagram for payment routing in accordance with back to back contracts between IREL & overseas buyer and IREL & BSM producers / suppliers is attached as Annexure - II

10) All contracts / agreements between IREL and foreign buyer for export of BSM shall be on advance payment basis / Letter of Credit.

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42.

Annexure - I

REGISTRATION FORM for KYC

CANALISATION OF BEACH SAND MINERALS (BSM) THROUGH INDIAN RARE EARTHS LIMITED (IREL).

A) Applicant profile		
1. Name of BSM Producer / Seller		
2. List of the names & addresses of all associates, subsidiaries & holding companies (if any)		
3. Office & Corresponding Address		
4. Factory Address		
5. Telephone		
6. e-mail		
7. Website		
8. Year of Establishment		
9. Name of the load port / ports for export		
B) Company/ firm profile		
1. Type of ownership	Individual / Partnership / Others (Pl. Specify)	
2. BSM Producer / Seller		
3. Nature of Company	NSIC / MSME/ Others (Pl. Specify)	
C) Enclose Valid Documentary proof		
1. Copy of partnership Deed 2. Articles & Memorandum of Association 3. List of partners / Directors 4. Copy of their PAN card, 5. Copy of Passport, 6. MCA identity	(Yes /No) Remarks: (Yes /No) Remarks: (Yes/No) Remarks: (Yes/No) Remarks: (Yes/No) Remarks: (Yes/No) Remarks:	
7. Copy of GST Number	(Yes/No) Remarks:	
8. Board resolution / Letter from partners authorizing all or any one of the directors / partners to sign the documents	(Yes/No) Remarks:	
9. Specimen signature of the partners / directors/ proprietor / duly attested by the Bank.	(Yes/No) Remarks:	
10. Copy of PAN of Company.	(Yes/No) Remarks:	
11. Copy of Import Export Code (IEC) certificate / Number, if any	(Yes/No) Remarks:	
D) Financial Competence (Enclose Valid Documentary proof)		
1. Copy of Annual reports along with audited balance sheet and profit & loss account for preceding 3 (three) financial years.	(Yes/No) Remarks:	
2. Copy of Income tax returns for the immediate previous year.	(Yes/No) Remarks:	

3. Banker letter indicating the performance and credit worthiness of the company / Firm and also indicating tenure of relationship.	(Yes/No) Remarks:
4. Undertakings: a) Stating that the director(s) / owner or proprietor or partner (as the case may be) is not convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises, during last five years. b) Stating that the business dealings has not been banned or suspended by Government of India, any Government authority connected with the line of minerals business or any of the PSU under Government. 5. Any other document as deemed fit by Government of India	(Yes/No) Remarks: (Yes/No) Remarks:

Declaration: I / we declare and confirm that all information and attachments submitted in this application are true and correct. I / we are aware that any false information provided herein will result in the rejection of my / our application and cancellation of any registration granted.

Place:
Date:

Authorised Signatory with Name and Designation
(Official seal of the company/firm)

- All documents submitted are to be self- certified by Authorised Signatory along name with official seal.

FOR OFFICE USE ONLY

KYC Acknowledgement no.:

Name of BSM Producer / Seller :

Total number of documents received---------- ,

Documents are checked and recommended for Registration.

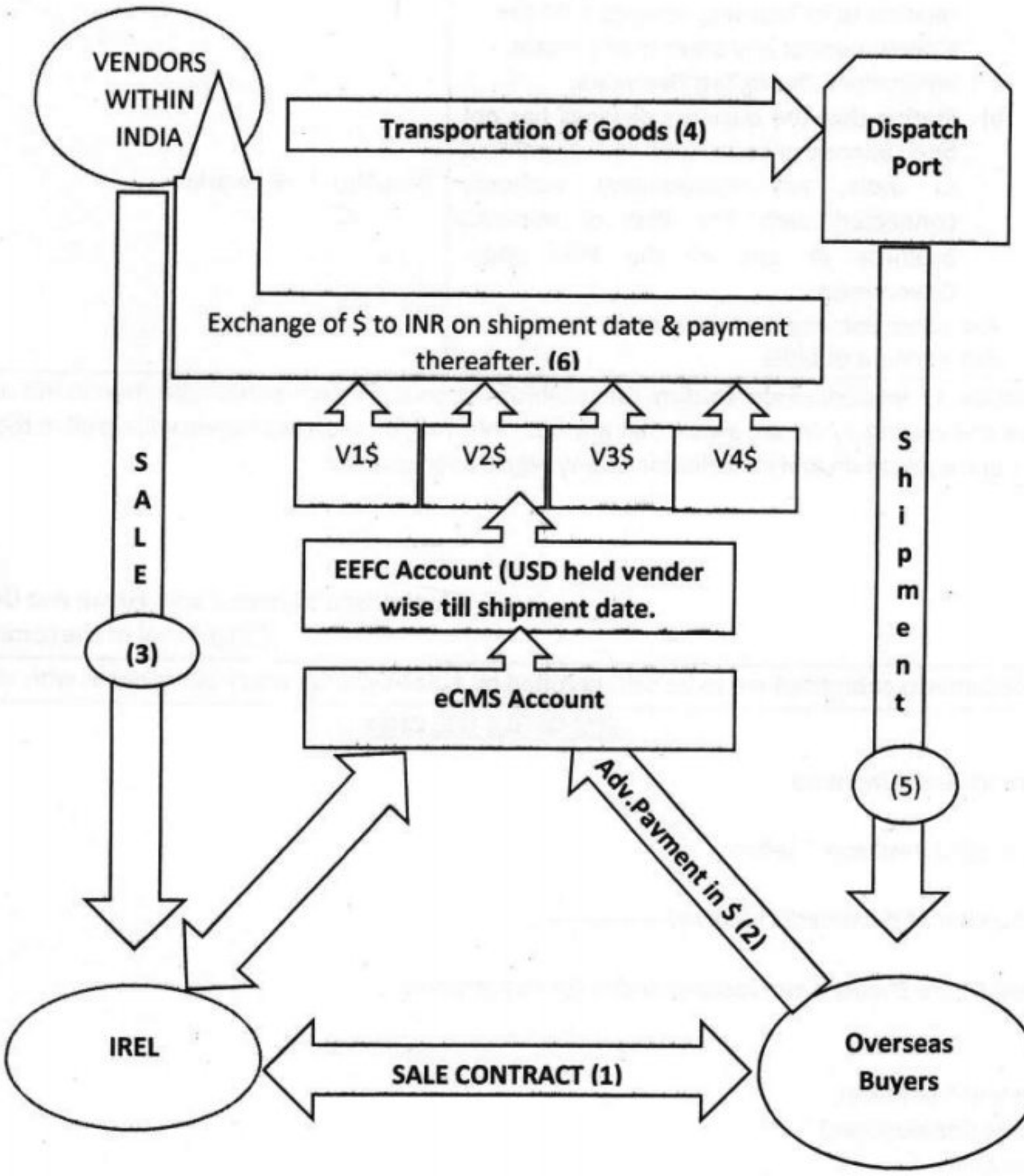
(Name and Signature)
(Incharge Canalization,)
--------- Zone.

KYC Registration Number ---------- is allotted to M/s---------- --.

(Name and Signature)
Nodal Officer, Canalization.

Annexure - II

FLOW CHART OF CANALIZATION



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY

&

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 3RD DAY OF SEPTEMBER 2018/12TH BHADRA, 1940

WA.No. 1724 of 2018

AGAINST THE JUDGMENT IN W.P.(C) No.650/2017 DT.26.7.2018

APPELLANT/PETITIONER:

M/S. V.V. MINERAL
KEERAIKARANTHATTHU,
TISAYANVILAI VILLAGE,
TIRUNELVELI DISTRICT,
TAMIL NADU,
REPRESENTED BY ITS MANAGER,
MR.C.SAKTHI GANAPATHY

BY ADV.SRI.JOSEPH KODIYANTHARA (SR.)
ADV.SRI. V. ABRAHAM MARKOS

RESPONDENT/S:

1 THE ASSISTANT COMMISSIONER OF CUSTOMS (SHB)
OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE,
WILLINGDON ISLAND, COCHIN-682009

2 THE COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE,WILLINGDON ISLAND,
COCHIN-682 009

3 THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT,TIRUNELVELI,
TAMIL NADU -627009

BY ADVS.
R3 BY SRI.C.MANISANKAR, ADDL.ADVOCATE GENERAL,
TAMIL NADU

R3 BY SRI.T.N.RAJAGOPALAN, GOVT. PLEADER/
STATE ATTORNEY, TAMIL NADU.

R1 & R2 BY ADV. SRI.SREELAL WARRIAR, SC
R3 BY ADV.SRI.RAJKUMAR K.R.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03.09.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

Hrishikesh Roy, C.J.

Heard Sri. Joeseph Kodiyanthara, the learned senior counsel for the appellant/writ petitioner. The 3rd respondent is represented by Sri. C. Manisankar, the learned Additional Advocate General, Tamil Nadu, duly assisted by the learned Government Pleader, Sri.T.N.Rajagopalan and Sri.K.Krishnamoorthy. The Customs Authorities are represented by Sri. Sreelal Warrier, the learned counsel.

2. The appellant is the writ petitioner. He challenges the judgment dated 26.7.2018 whereby W.P.(C) No.650 of 2017 was dismissed by the learned Single Judge. The challenge before the writ court was to the Exts.P2 and P3 orders of the Commissioner of Customs, Cochin, whereby the exporter was directed to produce the certificate/documents to show the legitimacy of the source for *Beach Sand Minerals and Natural Garnet* brought to Cochin Port for export by the writ petitioner. The insistence on verification of the source of the exportable material was in the backdrop of the 2013 ban on mining operation for *Beach Sand Minerals* imposed by the Tamil Nadu Government. The authorities felt that the *Beach Sand Minerals* out of which *Natural Garnet* is produced by the petitioner, was illegally sourced and transported to Kerala for export.

3. For the sake of convenience, the parties are referred to as they have appeared before the writ court. The petitioner is a registered Partnership Firm

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carrying on the business of separation and processing of *Beach Sand Minerals.* The 3rd respondent is the District Collector of Tirunelveli, Tamil Nadu, who has addressed a letter to the Cochin Port Authorities, which was acted upon and on that basis, the Exts.P2 and P3 communication was issued requiring the exporter to satisfy that the *Beach Sand Minerals* exported by them, is legally mined and is sourced through legal process. The petitioner contended that the restriction on export imposed by the Custom Authorities at the behest of the 3rd respondent, is wholly without jurisdiction and it impinges the right of the petitioner to freely export the mineral and Garnet.

4. The learned Senior counsel, Sri.Joseph Kodiyanthara, submits that the petitioner has sourced the *Beach Sand Mineral* from legitimate source and have produced Garnet out of it and the said item is permitted to be freely exported, under the current policy of the Government. Accordingly, he argues that the restriction imposed on a freely exportable item should have been quashed by the learned Single Judge. The petitioner contends that the Custom Authorities at Cochin Port should not have acted on the direction issued by the Deputy Collector, Thirunelveli as *Natural Garnet* is a freely exportable item. The learned counsel refers to the relevant provisions of the *Customs Act, 1962* to argue that the restriction on export of the item, cannot be permitted by law. The petitioner had moved around 3107 MT of *Natural Garnet* through the Cochin Port. The balance quantity of the exportable item is now lying in the warehouse and they are scheduled for export.

5. The Deputy Commissioner, Thirunelveli, Tamil Nadu, on the other hand, averred that the petitioner was indulging in large scale illegal mining and

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therefore, the Tamil Nadu Government had to step in to prevent such illegal activities. This led to filing of a series of writ petitions before the Madurai Bench of the Madras High Court. The case of the Deputy Commissioner is that the petitioner had extracted minerals beyond the projected reserves and this tantamount to illegal mining. The Madurai Bench of the Madras High Court had passed a status quo order on 11.11.2016 as per Ext.P1(a). But Ext.P1 order is challenged by the petitioner in Revision before the Mines Tribunal and the said Revision Application is pending. It is the specific case of the 3rd respondent that the petitioner had resorted to illegal mining and transportation of huge quantities of raw sand, garnet and other products and the details of the minerals unlawfully mined during the period from 2000-2001 to 2015 -2016 have also been mentioned in the counter affidavit filed by the respondent. To prevent such unlawful mining and transportation, the ban order was imposed in 2013 by the Tamil Nadu Government.

6. The learned Additional Advocate General Tamil Nadu, Sri.Manisankar, contends that there is no cause of action for filing the writ petition in the Kerala High Court as the impugned exhibits were based on the decision taken by a Tamil Nadu officer, enforcing prevention of illegal *Beach Sand Minerals* mining and transportation thereof. The respondents contend that large scale illegal Mining was noticed in the Tuticorin and other Districts of Tamil Nadu and steps were taken for stopping the illegal operations and issuance of Transit Passes for transportation of Garnet and other products. It is projected that the State Government have constituted District Level and Taluk Level Committees to look into the complaints of illegal mining of Beach Sand and transportation thereof, so that the violators can be penalised.

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7. What can be seen from the impugned judgment is that the Madras High Court has prohibited the petitioner from operating their units and the resultant challenge in W.P.(MD) Nos.19755 and other connected petitions are being heard on a day -to-day basis in the Principal Bench of the Madras High Court. It is also relevant to mention that even while the ban was in force, the petitioner had exported *Beach Sand Minerals* out of the Cochin Port, without securing valid Transit Permits and that is why, they are now required to certify the source of the exported minerals.

8. *The Customs Act, 1962* defines "prohibited goods" as also "illegal exports" and, of course, neither *Beach Sand Mineral* nor *Garnet* is one of the prohibited items, under the Customs Act. But *Rule 3* of the *Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011* places ban on exploitation of minerals and minor minerals except sand and no person is entitled to transport or cause to be transported any mineral, without having valid Transit Pass. That apart, *Section 4(1A)* of the *Mines and Minerals (Development and Regulation) Act, 1957* (for short *'MMDR Act'*) prohibits transportation or storage any mineral, except in accordance with the provisions of this Act and the rules made thereunder.

9. What follows from the above narration is that while exporting, the exporter not only has to be concerned with the *Customs Act* but he must also adhere to other prohibitory laws like the *MMDR Act, The Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011*. Merely because export of a particular product is permitted freely under the *Foreign Trade Policy* and the *Foreign Trade (Development and Regulation) Act*, the export of

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any item in violation of other prohibitory laws, cannot be permitted by court.

10. In any case, it is not a case of total ban on export imposed by the authorities but when the exporter is able to satisfy the legal source of the mineral to be exported, he is at liberty to export them. In fact, it is the specific case of the learned counsel for the petitioner that all the items awaiting for export have been sourced through legal operations. If that be the case, if the petitioner can satisfy the authorities about the legitimate source of the minerals, they can carry on with their export activities without any hindrance.

11. We find that the learned single Judge has considered all the above aspects and noted that the custom authorities have issued Exts. P2 and P3 orders in accordance with the powers conferred upon them, under the *Customs Act* as also the notification issued under the *Foreign Trade Policy read with* the *Foreign Trade (Development and Regulation) Act*. Therefore, the court concluded that there is no illegality in the issuance of Exts. P2 and P3 orders and the petitioner is at liberty to export his goods, as soon as he is able to satisfy the authorities on the legal source, of the exported minerals.

12. At this stage, it is necessary for us to take note of two judgments relied on by the petitioner's counsel. In *Om Prakash Bhattia v. Commissioner of Customs, Delhi [2003 (155) E.L.T. 423 (S.C.)*, the Supreme Court was considering restriction on export of goods, where proper valuation of the exported goods was insisted upon, to enable free export. In *D.G.Exports v. Union of India [2015 (319) E.L.T. 267 (Del.)*, the Delhi High Court was considering restriction on export of bullet-

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proof vests, which were considered to be restricted items in the nature of military stores. The facts in the two cited cases are entirely different and in our considered opinion, they do not be apply to the situation in the present case.

13. After due consideration of the rival submissions, we do not find any infirmity with the reasoning and the conclusions drawn by the learned single Judge and accordingly, the writ appeal stands dismissed.

Sd/-
HRISHIKESH ROY
CHIEF JUSTICE

Sd/-
RAJA VIJAYARAGHAVAN. V.
JUDGE

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P.S. TO JUDGE

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MODIFIED CHART of Consolidated Table showing total quantum of unlawfully mined minerals, Lessee Wise after incorporating data provided by V.V. Mineral (ref: pg. 11 AC- Vol. 1 - Annexure)

S.No	Lessee	No of Leases Granted	Total quantum of minerals transported (in Metric Tonnes)							Total quantum of minerals unlawfully transported (in Metric Tonnes)							Actual production as reported in the Annual Returns		
			Raw Sand	Garnet	Ilmenite	Rutile	Zircon	Sillimanite	Leucoxene	Raw Sand	Garnet	Ilmenite	Rutile	Zircon	Sillimanite	Leucoxene	ROM	Garnet	Ilmenite
1	V.V.Mineral	34	9771100	2117200	2920027	30050	46700	45200	4200	4577330	1087829	2123202	20502	46556	45200	4200	7680052	1798361	776392
2	Transworld Garnet India Pvt. Ltd.	16	2183670	185150	-	-	-	200	-	1479028	100849	-	-	-	200	-	2422431	-	-
3	Beach Mineral Sands Company and Beach Mineral Company Pvt Ltd	10	2339100	875500	462945	-	500	-	-	1546619	614018	247972		500	-	-	2298365	280925	-
4	M.Ramesh	1	607000	256050	13000	-	-	-	-	544200	228819	13000	-	-	-	-	86175	17400	-
5	K.Thankaraj	1	667000	263455	-	-	-	-	-	623221	249973	-	-	-	-	-	200430	-	-
6	Industrial Mineral India Pvt Ltd	1	110000	18000	34000	3000	-	-	-	69999	15304	23894	2894	-	-	-	-	-	-
7	Indian Garnet Sand Company Pvt Ltd.	1	200	-	-	-	-	-	-	-	-	-	-						-
Total		64	15678070	3715355	3429972	33050	47200	45400	4200	8840397	2296792	2408068	23396	47056	45400	4200	12687453	2096686	776392

1. Out of total quantum of 1,56,78070 (1.56 Crores) MTs of Raw Sand mined and transported, 88,40,397 (88.40 Lakhs) MTs is unlawful
2. Out of total quantum of 37,15,355 (37.15 Lakhs) MTs of Garnet mined and transported, 22,96,792 (22.96 Lakhs) MTs is unlawful
3. Out of total quantum of 34,29,972 (34.29 Lakhs) MTs of Ilmenite mined and transported, 24,08,068 (24.08 Lakhs) MTs is unlawful
4. Out of total quantum of 33,050 MTs of Rutile mined and transported, 23,396 MTs is unlawful
5. Out of total quantum of 47,200 MTs of Zircon mined and transported, 47,056 MTs is unlawful
6. Out of total quantum of 45,400 MTs of Sillimanite mined and transported, 45,400 MTs is unlawful
7. Out of total quantum of 4,200 MTs of Leucoxene mined and transported, 4,200 MTs is unlawful

SOURCE:

1. Data of IBM, AMD and Districct Mines Office
2. Data submitted by V.V. Mineral to Taluk Level Committee

Part B: Company-wise Analysis

1. Analysis of Stocks of M/s VV Minerals, R-8/22

17. As regards the stock found with M/s V.V. Minerals during the inspection by the Special Team, the report states that as against the declared quantity of stock of 42,11,032.85 MT, the Special Team found a total of 38,77,391.005 MT of stock. This amount was in turn divided as follows:

Category	Quantity (in MTs)
Raw Sand	30,36,290.685
Semi-processed sand	7,23,034.62
Semi-processed mineral enriched with Ilmenite	400.05
Garnet	69,609.25
Ilmenite	44,253.098
Zircon	2,994.7
Rutile	809.3
Total	38,77,391.005

(Source: Page 32, Special Team Head Report).

18. As previously stated, the above figures do not seem to reflect the quantification of the stock by minerals, based on the results of the mineralogical analysis. We therefore turn our attention to a detailed analysis stock-wise and mineral wise, based on the mineralogical analysis report submitted by AMD.

Quantity of Monazite that can be obtained from samples classified as 'Processed Minerals'

19. In all, out of 19 samples classified as Processed Minerals, 5 samples were found to have monazite content > 0.25% Monazite equivalent, the prescribed threshold value as stipulated by AMD, beyond which exports were not permitted.

20. The 5 samples are those having Sample Numbers TTk/ 2, TTk/ 3, and TTk/ 4 stocked in Mullakadu and TTk/38, TTk/ 39 stocked in Serndamangalam are containing Monazite content more than the prescribed concentration of 0.25% Monazite equivalent.

21. The total quantum of processed Ilmenite (TTk/ 2) stored in Mullakadu by VV Minerals is assessed as 7255.08 metric tons. The total heavy minerals concentrates in the stock is 98.832%. Ilmenite is having a concentration of 95.88% and Garnet is having 1.25%. Whereas, Monazite is having a concentration of 0.7040%. It reveals that 69,569 metric tonnes of Ilmenite and 911 metric tonnes of Garnet are found in the stock. Significantly, the quantity amounts to 510.7878 metric tonnes of Monazite.

22. The total quantum of processed Rutile (TTk/ 3) stored in Mullakadu by VV Minerals is assessed as 809.25 metric tons. The total heavy minerals concentrates in the stock is 99.048%. Rutile is having a concentration of 92.4180% and Zircon is having 2.2720%. Whereas, Monazite is having a concentration of 3.7580%. It reveals that 747.8927 metric tonnes of Rutile and 18.3862 metric tonnes of Zircon are found in the stock. Significantly, the stock is having a quantum of 30.4116 metric tonnes of Monazite.

23. The total quantum of processed Zircon (TTk/ 4) stored in Mullakadu by VV Minerals is assessed as 2635.65 metric tons. The total heavy minerals concentrates in the stock is 98.374%. Zircon is having a concentration of 91.7180%, Silimanite is having 0.3560% and Rutile is having 0.7750%. Whereas, Monazite is having a concentration of 4.8280%. It reveals that 2417.36 metric tonnes of Zircon, 20.4263 metric tonnes of Rutile, and 9.3829 metric tonnes of Silimanite are found in the stock. Significantly, the stock is having a quantum of 127.2492 metric tonnes of Monazite.

24. The total quantum of processed Zircon (TTk/ 39) stored in Sendamangalam by VV Minerals is assessed as 359 metric tons. The total heavy minerals concentrates in the stock is 99.016%. Zircon is having a concentration of 93.4520% and Silimanite is having 3.1880%. Whereas, Monazite is having a concentration of 0.9440 %. It reveals that 335.4927 metric tonnes of Zircon and 11.4449 metric tonnes Silimanite are found in the stock. Significantly, the stock is having a quantum of 3.3890 metric tonnes of Monazite.

25. To sum up, in all, a total quantity of 671.83 metric tonnes of Monazite can be derived from the above stocks of processed minerals.

Total Monazite that can be extracted from Processed Mineral Samples > 0.25% Monazite Equivalent

Sl. No	Sample No.	Village	Processed Mineral	Total Stock (in MTs)	Monazite %	Monazite quantity (in MTs)
1	TTk 02	Mullakadu	Ilmenite	72,555.08	0.704	510.79
2	TTk 03	Mullakadu	Rutile	809.25	3.758	30.41
3	TTk 04	Mullakadu	Zircon	2635.65	4.828	127.25
4	TTk 39	Serndamangalam	Zircon	359	0.944	3.389
				Total Monazite		671.839

Source: Mineralogical data submitted by AMD

Analysis of samples classified as raw sand but with presence of heavy minerals quantities above normal levels

26. Of all the samples taken from M/s VV Minerals from its stock yards in all the three districts, about 19 samples were categorised as 'Raw Sand' stocks based on the fact that these samples were found to contain < 30% THM content. Interestingly, of these 19 samples, 5 samples were found to be different in the sense that while the THM % was < 30%; other heavy minerals like Rutile, Zircon, Leucoxene, Monazite, Silimanite were found in substantial proportion of more than 10% in these stocks. This indicates that the stock was not raw sand, but perhaps was actually 'tailings' or in other words, residual sands after extraction of garnet and Ilmenite. The samples therefore ought to be rightfully considered as Semi-processed Minerals and not as raw sand. The following 5 samples so identified are all drawn from stocks in Tirunelveli District: TNV 31, 32, 39, 51, 63.

27. It is interesting to note that in 4 out of these 5 samples, the monazite content is > 0.25 % Monazite Equivalent. These are Samples Number TNV 31, 39, 51 and 63.

28. A total quantity of 5, 201.66 MTs of monazite can be extracted from these stocks as shown below:

Total Monazite that can be extracted from select Raw Sand Samples > 0.25% Monazite Equivalent

Sl. No.	Sample No.	Village	Total Stock (in MTs)	Monazite %	Monazite quantity (in MTs)
1	TNV 31	Tiruvambalapuram	8,41,167.9	0.56	4,713.06
2	TNV 39	Tiruvambalapuram	14,069.1	1.26	176.66
3	TNV 51	Irukkanthurai	5,166	0.31	15.98
4	TNV 63	Levinjipuram	1,02,764.77	0.288	295.96
			Total Monazite		5,201.66

Source: Mineralogical data submitted by AMD

Status of Stocks Declared by mining company and as estimated by Special Team: Are they raw sand mined before or after ban in September, 2013?

29. A crucial question that needs to be addressed is whether the quantity of stocks found by the Special Team, amounting to 38.77 lakh tonnes, are stocks remaining from the balance stocks available with the company in September 2013 when the ban was imposed or whether the stocks were illegally mined after the impositions of the ban during the period September 2013 to end 2016.

30. To study this question, it is necessary to examine the declaration of stocks as provided by the company before different authorities. There are 3 types of information that is relevant to be examined:

(i) In the Counter filed by Respondent -2, DAE, dated 10th January, 2017, it is stated that the Company had submitted information to DAE in pursuance to the directions in the present proceedings, to have mined a total quantity of raw sand - ROM – from all the 34 mining leasehold areas, of 98,88,100 metric tonnes during the period 2007 - 16. The point to be noted is that this figure of 98.88 lakh tonnes has been provided by R8/22 in several places, and can therefore be taken to be the figure of ROM mined by the company.

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(ii) The same company (i.e. R8 and 22) has submitted a detailed chart showing the total ROM mined and transported between 2000-2001 to 2013-14 (upto September 2013), the quantity sold as exports and local sales, waste sand, 'Total ROM quantity transported on payment of Advance Royalty' and the '*Balance available quantity of royalty suffered ROM*' available in VV Mineral processing plants as of 2015 - 16. This was submitted to the Taluk-level committee, which was enquiring into the complaint of illegal extraction and transportation of BSM (See Table). The figures in a nutshell are as follows:

Category		Total Quantity (in Metric Tonnes – MTs)
Total ROM quantity transported on payment of Advance Royalty		98, 80, 600
Total Sales	56,59,688.22	
Waste	1,12,000.00	
Grand Total (sales + waste)	57,71,688.22	57,71,688.22
Balance available quantity of ROM (as of 2013-14, when Ban was imposed)		50,74,860.58
Balance available quantity of ROM (as of 2015-16)		41,08,911.78

Source: Abstract submitted by M/s VV Minerals to Taluka Level Committee in 2016.

(iii) In the declaration made by R8/22 to the Special Team in 2017, it was disclosed that they had a stock of 42.11 lakh tonnes.

The crucial question to analyse here is about the status of this stock of raw sand, as to whether it was mined before the ban was imposed in September, 2013, or if it can be held to be illegally mined between September, 2013 – end 2016 when all mining and transportation

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operations came to a halt pursuant to this Hon'ble Court taking notice of the issue.

31. An analysis of the details provided in the Abstract filed before the Taluka Level Committee reveals that there are only two possible analysis of the data submitted:

a) Explanation A: If we are to consider that the 'Balance Quantity of ROM' of 41,08,811.78 MTs is correct, then the following calculation becomes relevant:

As against a Total ROM of 98, 80, 600 MTs transported:

A: Total ROM processed:	57,71,688.22 MTs
B: Total yield of BSM: (Exports+Local)	56,59,688.22 MTs
C: Recovery % of THM: B/A x100	98.41%

Recovery % of 98% is totally unknown and is totally unsubstantiated by available literature and AMD benchmarks as also approved Mining Plans / Scheme of Mining.

b) Explanation B: If the recovery % of THM as a proportion of Total ROM transported is considered as correct, then the following calculation emerges:

A: Total ROM Transported:	98,80,600 MTs
B: Total BSM sold / produced:	56,59,688.22 MTs
C: Recovery % - B/A x100:	58.41 %.

There are 2 issues to be kept in mind at this juncture:

(a) The recovery of 58.41% THM from ROM is very high and not supported from available literature nor are they supported by reference to approved Mining Plans / Scheme of Mining of the company concerned.

(b) It needs to be pointed out that the break up of the 56.59 lakh MTs of Minerals sold has not been provided in terms

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of the constituent heavy minerals like Garnet, Ilmenite, Rutile, Silimanite, Leucoxene and Zircon. The absence of information of the various heavy minerals sold is a major constraint, as it becomes difficult to evaluate the total ROM required to process to obtain different BSMs.

(c) Be that as it may, even if we assume that the Minerals sold was of the same product, then to produce 56.59 Lakh MTs of processed minerals capable of being sold, at least 3 times to quantity of Raw Sand (ROM) will be required. In other words, a minimum quantity of 1.6 to 2.00 Crore M. Tonnes of raw sand would be required to be processed to produce 56.59 Lakh MTs of minerals. This quantity is not only not reflected in the Abstract, but also completely exposes the Abstract as not being a true picture of facts.

(d) Very importantly, the sand left behind after processing for minerals, can only be waste sand and cannot be treated as raw sand available for fresh mineral processing.

32. Thus, in any which way we examine the Abstract, it is clear that the table does not reflect the true facts. More importantly, the figure depicted as 'Balance available quantity of ROM' cannot be treated as ROM remaining in balance after processing.

33. The implication of this finding is that the declaration made in the abstract of Balance ROM available since 2013-14 onwards, cannot be treated as raw sand but as waste sand. Consequently, the figure of 41,08,911 MTs of ROM shown in the Abstract is either

(i) waste shown wrongly as ROM; or

(ii) ROM mined after the ban period, in which case it is illegal.

34. It is possible to demonstrate that the calculation adopted in the Abstract provided by the Mining Company is flawed and an attempt to obfuscate facts using simplistic calculation. This can be done by considering the data for any one year.

35. As a case in example, we may take the figures for the year 2011-12 and 2012-13, which shows the following:

A: Balance ROM as on 31.3.2012:	36,80,126.62 MT
B: Tot. ROM transported during 2012-13:	16,44,000 MT
C: Total ROM (A + B):	53,24,126.62 MT
D: Qty ROM Processed:	5,50,349.91 MT
E: Qty Minerals sold in 2012-13:	5,50,349.91 MT
F: Qty Waste:	NIL
G: B/c ROM in 2012-13 (C-E):	47,73,776.71 MT

36. What is to be noted is that to produce 5,50,349.91 MT of BSM which is sold, a minimum of 3 times quantum of raw sand would be required to be processed. After processing, that sand is no longer raw sand but is waste and cannot be shown as raw sand.

37. Curiously, using sophistry, the company does a simple calculation to state that the balance ROM is 47.73 lakh tonnes, which is impossible and will have to be dismissed as an unreal figure.

38. Put differently, we can depict the calculation in the following manner:

Raw sand (-) Raw Sand = Raw sand.

Processed Mineral (-) Processed Mineral = Processed Mineral

Raw Sand (-) Processed Mineral CANNOT be Raw sand.

39. The above calculation is just an illustration to show how the table is not only flawed but also fraudulent. The same method of calculation is used in the entire table. This method of analysis is adopted by the company for all the years between 2000 – 01 to 2015 – 16.

40. Stocks Found by Special Team is Illegally Mined: In light of the above, the finding of the Special Committee that there is a total quantity of 38.77 lakh MT of stock including 30.36 lakh MT of raw sand can only imply that this stock was mined illegally, including after the ban period imposed in September 2013.

Analysis of the inspection of the Monazite tailings yard in Tiruvambalapuram village, Tirunelveli district:

41. The Sahoo committee Report highlights the fact that the inspection of the Monazite tailings yard at Tiruvambalapuram carried out by the

team lead by the specialist group AMD, found a quantity of 1,35,135 MT of Monazite enriched tailings at an average grade of about 17.2%-17.47%, amounting to a total of 23,608 MT of Monazite. Though the total figure of 1,35,135 MT of Monazite tailings differs substantially from the quantity of tailings declared by the company (80,725 MT of Monazite tailings with other heavy minerals and Silica waste), the total quantum of Monazite varies only slightly. Only the expert agencies and the company can explain the discrepancy in the total amount of tailings found. However, considering that the total quantity of pure Monazite calculated by AMD as highlighted in his reply affidavit dated 10.01.2017 of 23,461.7 MT viz. the present finding of 23,608 tonnes, the discrepancy is not too high.

42. A much more critical point is the fact of the quantum of ROM (raw sand) that is required to produce 23,461 or 23,608 MT of Monazite. Using a very rough calculation, it was already highlighted in the 1st report of the Amicus Curiae filed before this Court on 20th June, 2017, that a total quantity of ROM amounting to between 4.6 to 4.9 Cr tonnes of raw sand will be required to produce 23,462 tonnes of Monazite. None of the respondents so far have controverted this figure.

43. In this background, the crucial point to be highlighted is the fact that while the total amount of raw sand declared by R8/22 to have been mined between 2000-01 to 2013-14 is only 98.88 lakh tonnes. Monazite tailings indicate a massive amount of 4.6 to 4.9 Cr tons of raw sand having to be required to be mined. All this therefore indicates a huge discrepancy between factual records of transportation, declarations made by the company as to the extent of ROM mined and the actual fact as disclosed from the Monazite tailings.

44. Adding complexity to this is the fact that the report of the Special Team indicates that a quantity of 671.89 metric tonnes of Monazite can be extracted from the processed minerals kept packed in bags in Tuticorin with Monazite content between 0.7% to 4.8% (See Table above). Using the same calculation method, a much higher proportion of raw sand (ROM) would be required to produce 667.4 metric tonnes of pure

Monazite. Using the same mode of calculation, about 13 lakh tonnes of raw sand would be required to produce 671 MT of Monazite.

Total Quantity of Monazite that can be extracted from Stocks available with M/s VV Minerals which are > 0.25% Monazite Equivalent.

44. If one was to calculate the total quantity of Monazite contained in all the various stocks of the company, (including raw sand, semi-processed and processed minerals) which are greater than 0.25% Monazite equivalent, we get a figure of about 15,000 MT of Monazite.

45. In other words, apart from the 23,608 MT of Monazite available in the Monazite tailings yard, a quantity of 15,000 MT of Monazite can be extracted from the stocks of M/s VV Minerals, adding to a total of 38,608 MT approximately of Monazite. Using the same backward calculation, this will require a figure upwards of 6.00 to 7.00 Cr tonnes of ROM (raw sand) must have been mined.

46. To summarize the findings, the following are the key points:

(i) The total quantity of stock found to belong to M/s VV Minerals as reported in the Sahoo Committee Report of 38.77 lakh tonnes is totally illegal.

(ii) The total quantity of Monazite available in the processed minerals is 671 MT.

(iii) The total quantity of Monazite available in the stocks of the company amounts to approximately 15,000 MT.

(iv) The total quantum of Monazite available in the Monazite tailings stored in the designated site at Thirvambalapuram village is 23,608 MT as found by AMD.

(v) A total quantity of over 4.6 Cr tonnes of raw sand is required to produce 23,608 MTs of Monazite. How and where this was obtained or how such a massive mining could be covered up is a matter that is required to be inquired into by specialised agencies competent to undertake such an investigation.

(vi) If to the stock of 23, 608 MTs of Monazite, a further quantity of 15,000 MTs of monazite that can be extracted from all the stocks of the company is added, a total figure of 38, 608 MTs of Monazite

merges. As explained before, this, in turn, would require a quantity of over 6 to 7 crore tonnes of raw sand (ROM).

2. Analysis of Stocks of M/s Transworld Garnet India Pvt. Ltd, R-9

47. The Report of the Special Team in respect of stocks of raw sand and minerals processed by M/s Transworld Garnet has reported that as against a declared quantity of 17,75,761 MT of stock, the quantity estimated by the Second Level Teams is 16,30,724.5 MTs. A more detailed breakup of this figure is provided by the Special Team in the following Table:

SL. No.	Category	Quantity (in MTs)
1	Raw Sand	15,21,713.5
2	Semi processed sand	1,02,870
3	Garnet	6140.86
	Total	16,30,724.36

Source: Sahoo Committee Report, page 32

48. It is necessary to point out that Transworld Garnet India Pvt. Ltd. has been granted 14 mining leases for mining garnet in Tirunelveli district and 2 mining leases for mining garnet in Thoothukudi district. They do not have any mining lease for mining Ilmenite and other BSMs.

49. While so, one of the samples relating to Processed Mineral, viz., TTk 15, relating to sample taken in Kootudankadu village in Thoothukudi district, found THM concentration of 98.472% in a stock of 6140.86 MT quantity. It is reported that this processed minera is a finished product kept in bags for sale.

50. In this sample, Garnet concentration was found to be 91.95 % amounting to 5646.76 MTs of garnet.

51. Very interestingly, this same sample also contains 6.5 % of Ilmenite amounting to 399.16 MTs of Ilmenite. In other words there was a substantial quantity of Ilmenite in the stock which is said to be mainly Garnet.

RESPONDENT COMPANY WISE MONAZITE PERCENTAGE MORE THAN 0.25% IN THE MINERAL STOCKED IN THREE DISTRICT

Minerals	V/V.Minerals				BMC				IMC				Transworld				IOGS			
	<0.25%	Quantity	>0.25 %	Quantity	<0.25%	Quantity	>0.25 %	Quantity	<0.25%	Quantity	>0.25 %	Quantity	<0.25%	Quantity	>0.25 %	Quantity	<0.25%	Quantity	>0.25 %	Quantity
Raw sand	13	2242.02	9	5267.93	1	9334.99	0	0	3	811.69	2	127.92	2	2719.3	0	0	1	48.35	1	152.84
Semi processed	9	10.7	33	6755.85	2	61.3	3	3765.75	3	496.83	5	2682.1	0	0	1	265.41	2	4.21	12	1441.62
Processed	14	51.85	5	671.99	5	0.46	3	15.23	7	4.13	0	0	1	0.24	0	0	1	0.35	1	91.6
	36	2304.57	47	12695.77	8	9396.75	6	3780.98	13	1312.65	7	2810	3	2719.54	1	265.41	4	52.91	14	1686.06
	83		15000.34		14		13177.73		20		4122.65		4		2984.95		18		1738.97	

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M. SATHYANARAYANAN,J.,
AND
N. SESHASAYEE,J.,

(Order of the Court was made by M. SATHYANARAYANAN, J.,)

Arguments in this batch of cases are going on since 09.07.2018 and Dr.V. Suresh, learned Amicus Curiae, is in the midst of making his submissions.

2. When the learned Amicus Curiae started making his submissions, Mr.Srinath Sridevan, learned counsel appearing for the Respondents No.8 and 22 viz., M/s V.V. Mineral (R.8) and Mr.S. Vaikundarajan (R.22) would submit that the scope of present suo-motu proceedings in W.P.No.1592 of 2015 pertains only to "Monozite". However, the said submission is strongly opposed by Dr.V. Suresh, learned Amicus Curiae as well as Mr.Selvaraj, who appears for one of the respondents viz.Dhaya Devadas (R.26) in the suo-motu writ petition.

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3. Therefore, the issue, to be decided is, whether the present suo-motu writ petition covers only one of the Beach Sand Minerals namely "Monozite".

4. A Perusal of the materials placed before this Court would disclosed the following facts:

5. W.P.(MD)Nos.5549 of 2007, 14399 of 2011, 14400 of 2011 and 1233 of 2012 came to be filed and all the writ petitions were disposed of by Common Order dated 12.12.2013. In the writ petition in W.P.(MD)No.1233 of 2012, filed by Mr.Dhaya Devadas, one of the respondents in the suo-motu writ petition, the prayer was for issuance of a writ of mandamus directing enquiry into massive illegal beach sand mining in Tamil Nadu.

6. The Division bench of this Court has taken note of the fact that the Government of Tamil Nadu issued G.O.Ms.No.156, Industries Department dated 08.08.2013, formed a Special Team, headed by Thiru.Gangandeep Singh Bedi, I.A.S., Secretary, Revenue Department to inspect leases granted to private parties for mining major minerals

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like "garnet, ilmenite and rutile etc., so as to have a comprehensive assessment of the mining of major minerals.

7. The Division Bench has also taken note of the said fact and observed as follows:

" In such circumstances, in view of the fact that a committee of experts, under the Chariamship of Mr.Gangandeep Singh Bedi, Secretary, Revenue Department, has been constituted by the State Government to examine, investigate and to file a report, after physical verification of the mining sites in question, we find it appropriate to permit the petitioner in the writ petitions, including those who are wanting to implead themselves in the writ petitions to submit their representations to Mr.Gangandeep Singh Bedi, the Chairman of the Committee, along with necessary documents, if any, within fifteen days from today. It is also made clear that it would also be open to the private respondents, who are parties herein, to submit their representations to the Chairman of the Committee, within the time specified above. On receipt of such representations, the Committee

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concerned shall examine the issues, by making necessary enquiries and investigate and if necessary, by serving appropriate notices on the parties concerned, and file a report before the State Government for necessary action, as expeditiously as possible.

In such circumstances, in view of the fact that the parties concerned have been given the liberty to place all the relevant materials before the Committee of experts, constituted by the State Government, we are not inclined to make any observations, with regard to the validity and correctness of the claims and counter claims made by the parties before this Court. It would be lent to the Committee concerned to check and to verify such claims, if necessary, by providing an opportunity of hearing to the parties concerned and to file its report before the State Government, as directed by this Court, by this order. On receipt of such report it is for the State Government to take appropriate steps and to pass necessary orders, as it finds fit and necessary, in accordance with law".

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8. M/s V.V. Mineral and M/s Transworld Garnet India Pvt Lt filed Writ Petitions in W.P.Nos.16716 and 19641 of 2014. Both the Writ Petitions were taken together for hearing and the learned Single Judge of this Court displaced Mr.Gangandeep Singh Bedi from the Chairmanship of the Committee and appointed Mr.Vinod Kumar Sharma, (former Judge of High Court of Punjab and Haryana) and the retired Judge of this Court as the Chair-person of the Committee only insofar as the Petitioners in WP Nos.16716 and 19641 of 2014.

9. Aggrieved by the above said order, Mr.Dhaya Devadas filed Writ Appeals in W.A.Nos.1220 and 1221 o 2015 and the State Government filed Writ Appeals in W.A.Nos.1168 and 1169 of 2015 and the writ appeals have been entertained and are pending.

10. It is to be pointed out at this juncture that a perusal of the order in both the writ petitions would disclose that findings have been given as to the alleged illegal mining and admittedly the Special Committee headed by Mr.Gangandeep Singh Bedi I.A.S., has prepared the Report and the copies of the same, have also been furnished to the respective learned counsel appearing for the parties.

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11. Insofar the suo-motu Public Interest Litigation is concerned, originally it was filed by G.Victor Rajamanickam and by order dated 28.12.2016, the petitioner had withdrawn the proceedings and the Writ Petition, filed by him, was treated as suo-motu Public Interest Litigation by this Court.

12. The Writ Petition, originally filed by G. Victor Rajamanickam came up for hearing on 23.01.2015 and it was represented on behalf of the petitioner that he confines his relief to what he claims to be unauthorised beach sand mining of monozite mineral, which is not capable of being mined, unless permission is granted by the Central Government. Therefore, notices were ordered to the respondents. Subsequently, the same was converted as suo-motu Public Interest Litigation by this Court by order dated 28.01.2016.

13. The Hon'ble First Bench of this Court (Hon'ble Mr.Jusice Sanjay Kishan Kaul, as the then C.J., and Hon'ble Mrs.Justice Pushpa Sathyanarayana) by Order dated 28.01.2016 had appointed Dr.V. Suresh, as Amicus Curiae to assist in this mater and thereafter,

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the learned Amicus Curiae filed memos, seeking certain directions.

14. When the writ petition came up for hearing on 21.11.2016, the learned Amicus Curiae emphasized that post 2013, the mining was prohibited and transport licenses not issued and therefore, there could be no issue of even mining of other beach sand minerals and he also submits that the export of Garnet and Ilmenite specially from the port of Tuticorin is a matter of concern as to where these minerals are actually coming from.

15. The First Bench has taken note of the submissions made by the learned Amicus Curiae and issued direction for impleadment of parties i.e., (i) Commissioner of Customs and Central Excise, Thoothukudi Port (ii) Regional Commissioner of Customs and Central Excise, Chennai and (iii) Chairman, VO Chidambaranar Port Trust, Thoothukudi with a further direction to amend the cause title.

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16. The matter came up for hearing on 27.03.2017 and an Order has been passed and the relevant portion of the order, is extracted hereunder:

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" 4. It is pointed out that through out coastal area of Tamil Nadu, beach sand mineral by low tide and high tide sea ways, will produce different minerals, viz., Garnet, Ilemenite, Rutile, Sillimanite and Monazite and other high valued minerals. Of which, Monozite, a prescribed substance – mineral, coming under the purview of Atomic Minerals Department. Being high value mineral and a natural wealth, it should be preserved and should not be leased out without proper approval of Atomic Minerals Directorate (AMD) and the Indian Bureau of Mines (IBM). The said mineral has to be isolated from crude form of sand mining and it can be best utilized in atomic power generation and manufacturing of Uranium and other types of heavy materials. In fact, by order dated 22.07.2016, this Court has taken note of the aspect of monozite mining and observed that it is for the Central Government to take a policy facilitating the utilisation of monozite mine, however, so far, no such policy had been brought. The learned Additional Solicitor General would submit that the

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Central Government alone has the right to grant permission for Monozite mining and as on date, no such permission was granted. Having regard to the high value of the mineral Monozite, which is a rare metal and considered as quite valuable and could be used as a replacement for Uranium in nuclear power generation, the Central Government has to take a policy decision and regulate the mining of the same. The learned Amicus Curiae would submit that while mining beach sand for minerals all along the coastal area of Tamil Nadu in respect of above said four Districts, it is very difficult to differentiate and isolate the Monozite mineral from among other minerals, such as Garnet, Ilemenite, Rutile, Sillimanite etc., unless a scientific research by the Experts in the field.

5. In the light of the above discussion, we feel it appropriate to pass the following:

i) The Special Team constituted by the State Government vide G.O.No.29, dated 25.03.2017, is directed to send the requisite Experts from Atomic Minerals Directorate (AMD) for Exploration and Research,

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Hyderabad and the Indian Bureau of Mines (IBM), Chennai to the coastal area of the above said four Districts to collect the samples

of raw material from sand mining and make an assessment of the availability of mineral Monozite and submit a comprehensive report;

ii) The Central Government shall take effective steps as a policy decision and regulate the process of mining and restrict the license in respect of Monozite;

iii) In view of the fact that despite the ban imposed, it is reported that still there was illicit mining, while extending the Status Quo already granted, the Special Team is directed to direct the special squads comprising of Police, Revenue, Mining and other departments, which being formed pursuant to Letter dated 25.03.2017 of the State Government, to frequently conduct patrolling of sea shore areas to detect and stop mining of beach sand across the coastal districts of Tamil Nadu and take stringent action against those who involved in illicit mining.

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iv) The Assistant Commissioners of Customs, Tuticorin and Chennai (impleaded as party respondents vide order dated 21.11.2016) are directed to furnish the details of quantity of

Monozite and other beach minerals, viz., Garnet, Ilemenite, Rutile, Sillimanite, Zircon, etc., that wree exported and their values, years wise from 2006 to till date.

v) It is made clear that since the mining activities have been temporarily banned, the Central and State Government shall not insist upon the payment of royalty for the present;"

17. In pursuant to the order dated 27.03.2017, originally Mr.Kasirajan, I.A.S was appointed and subsequently, he was replaced by Mr.Satya Bratta Sahu, I.A.S and he has conducted an enquiry and submitted a detailed Report and a copy of the said Report was also directed to be furnished to the respective learned counsel appearing for the parties and they have also been furnished with copies of such report.

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18. The prayer in W.P.No.1592 of 2015, which was converted into a suo-motu Public Interest Litigation, is for issuance of a writ of mandamus directing investigation by a special investigation team to probe illegal beach sand mining in the coastal districts of Tamil Nadu and to bring the offenders to justice as this Hon'bel Court may deem fit.

19. In the light of the fact that the common order dated 12.12.2013 passed in W.P.(MD)Nos.5549 of 2007, 14399 of 2011, 14400 of 2011 and 1233 of 2012 and the order passed by the Division Bench of this Court dated 29.07.2015 in W.P.Nos.16716 and 19641 of 2014 did not conclude the proceedings as to the alleged illegal sand mining coupled with the fact that the in the light of the aforesaid orders, which have been extracted above, this Court is of the considered view that the scope of suo-motu Public Interest Litigation covers not only "Monozite" but also all other Beach Sand Minerals especially with regard to the alleged illegal mining, transportation and other alleged activities.

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20. It is also to be pointed at this juncture that the submissions made by the learned Amicus-Curiae is in respect of all the Beach Sand Minerals and in the light of the doubt expressed by Mr.Srinath Sridevan, learned counsel, this Court is constrained to pass the present order for clarification.

21. Thus, this Court makes it clear that suo-motu Public Interest Litigation covers all Beach Sand Minerals, pertains to alleged unauthorised/illegal extraction of minerals, transportation and other associated alleged illegal or unlawful activities.

Post the matter on 30.01.2019 at 2.15 p.m.

(M.S.N.J.,) **(N.S.S.J.,)**
21.01.2019

sr

Note: Registry is directed to upload the order in website and parties are at liberty to file certified copy of the order and it shall be paid subject to payment of necessary charges.

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M. SATHYANARAYANAN,J.,
AND
N. SESHASAYEE,J.,

sr



W.P.No.1592 of 2015

21-01-2019

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भारत का राजपत्र
The Gazette of India

EXTRAORDINARY

II— — (i)

PART II—Section 3—Sub-section (i)

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No. 118] NEW DELHI, WEDNESDAY, FEBRUARY 20, 2019/PHALGUNA 1, 1940

खान मंत्रालय

अधिसूचना

नई दिल्ली, 20 फ़रवरी, 2019

सा.का.नि. 134(अ) केन्द्रीय सरकार, खान और खनिज (विकास और विनियमन) अधिनियम, 1957 (1957 का 67) की धारा 11ख और परमाणु खनिज रियायत नियम, 2016 के नियम 36 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, परमाणु खनिज रियायत नियम, 2016 में और संशोधन करने के लिए निम्नलिखित संशोधन करती है, अर्थात् :—

2. (1) इन नियमों का संक्षिप्त नाम परमाणु खनिज रियायत (द्वितीय संशोधन) नियम, 2019 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे ।

3. परमाणु खनिज रियायत नियम, 2016 में अनुसूची क, के स्थान पर निम्नलिखित अनुसूची रखी जाएगी, अर्थात:-

अनुसूची क

परमाणु खनिजों के लिए प्रारंभिक मूल्य की विशिष्टियां

[नियम 2(1) (ड) और नियम 36 देखिए]

1.	बेरिल और अन्य बेरिलियमधारी खनिज	शैल का 0.1% BeO(1000 पी.पी.एम. BeO) या उत्खनित सामग्री में बेरिल 10 कि.ग्रा./टन
2.	लीथियमधारी खनिज	ब्राइन (200 पी.पी.एम. Li, अर्थात् Li 200 ग्रा./ टन के सिवाय, अयस्क में 0.5%(5000 पी.पी.एम.) Li_2O
3.	'दुर्लभ मृदा' समूह के खनिज, जिनमें	अयस्क में 60 पी.पी.एम. U_3O_8 और/या 250 पी.पी.एम. ThO_2

	यूरेनियम और थोरियम अंतर्विष्ट है	
4.	नायोबियमधारी खनिज	अयस्क में 100 पी.पी.एम.$(Nb+Ta)_2O_5$(100 ग्रा./टन)
5.	फास्फोराइट और अन्य फास्फेटी अयस्क, जिनमें यूरेनियम अंतर्विष्ट है	अयस्क में 60 पी.पी.एम. U_3O_8
6.	पिचब्लैंड और अन्य यूरेनियम अयस्क	अयस्क में 60 पी.पी.एम. U_3O_8, सिवाय झारखंड में सिंहभूम शीयर क्षेत्र में, जहां कि थ्रेशहोल्ड वैल्यू अयस्क में 150 पी.पी.एम. U_3O_8,होगा
7.	टाइटेनियमधारी खनिज और अयस्क (इल्मेनाइट, रुटाइल और लियोकोक्सीन)	कठोर शैल में पाए जाने वाले टाइटेनियमधारी खनिजों की दशा में, शैल में 60 पी.पी.एम. U_3O_8 और/या 250 पी.पी.एम. ThO_2 बीच सैंड मिनरलस और अन्य जमा निक्षेपों में मोनाज़ाइट से सहयुक्त पाए जाने वाले टाइटेनियमधारी खनिजों की दशा में, मोनाजाइट श्रेणी कुछ भी होते हुए, उपर्युक्त अनुसार थ्रेशहोल्ड (अर्थात कुल भारी खनिजों में मोनाजाइट का थ्रेशहोल्ड 0.00% है) अधिसूचित किया जाता है।
8.	टेन्टेलमधारी खनिज	अयस्क में 100 पी.पी.एम.$(Nb+Ta)_2O_5$ (100 ग्रा./टन)
9.	यूरेनीफेरस ऐलैनाइट, मोनेज़ाइट और अन्य थोरियम खनिज	60 पी.पी.एम. U_3O_8 और/या 250 पी.पी.एम. ThO_2 बीच सैंड मिनरलस और अन्य जमा निक्षेपों में मोनाज़ाइट से सहयुक्त पाए जाने वाले खनिजों की दशा में, मोनाजाइट श्रेणी कुछ भी होते हुए, उपर्युक्त अनुसार थ्रेशहोल्ड (अर्थात कुल भारी खनिजों में मोनाजाइट का थ्रेशहोल्ड 0.00% है) अधिसूचित किया जाता है।
10.	तांबा और स्वर्ण के निष्कर्षण के पश्चात् अयस्कों के बचे हुए यूरेनियमधारी अवशिष्ट, इल्मेनाइट और अन्य टाइटेनियम अयस्क)	60 पी.पी.एम. U_3O_8 और/या 250 पी.पी.एम. ThO_2
11.	जिर्कोनियम, जिसमें जिर्कोन सहित खनिज और अयस्क होते हैं।	बीच सैंड मिनरलस और अन्य जमा निक्षेपों में मोनाज़ाइट से सहयुक्त पाए जाने वाले जिरकोनियमधारी खनिजों की दशा में, मोनाजाइट श्रेणी कुछ भी होते हुए, उपर्युक्त अनुसार थ्रेशहोल्ड (अर्थात कुल भारी खनिजों में मोनाजाइट का थ्रेशहोल्ड 0.00% है) अधिसूचित किया जाता है। अन्य दशाओं में, जिर्कोन, जिसमें 200 पी.पी.एम. से कम हफनियम अंतर्विष्ट है।
12.	बालू तट खनिज अर्थात टेरी या तटीय बालू में पाये जाने वाले किफायती भारी खनिज जिसमे इल्मेनाइट, रूटाइल, ल्यूकोक्सीन, गारने, मोनोजाइट, जिर्कोन तथा सिलिमेनाइट शामिल है।	बीच सैंड मिनरलस और अन्य जमा निक्षेपों में मोनाज़ाइट से सहयुक्त पाए जाने वाले खनिजों की दशा में, मोनाजाइट श्रेणी कुछ भी होते हुए, उपर्युक्त अनुसार थ्रेशहोल्ड (अर्थात कुल भारी खनिजों में मोनाजाइट का थ्रेशहोल्ड 0.00% है) अधिसूचित किया जाता है।

[फा.सं. 1/1/2019-एम.VI]

निरंजन कुमार सिंह, संयुक्त सचिव

नोट : परमाणु खनिज रियायत नियम, 2016 अधिसूचना संख्या. सा.का.नि. 677(अ), तारीख 11 जुलाई, 2016 द्वारा भारत के राजपत्र, असाधारण, भाग , खंड 3, उपखंड (i) में प्रकाशित किए गए थे और अधिसूचना संख्या सा.का.नि. 126 (अ) तारीख 19 फरवरी, 2019 के द्वारा अंतिम बार संशोधित किए गए।

MINISTRY OF MINES

NOTIFICATION

New Delhi, the 20th February, 2019

G.S.R. 134(E).—In exercise of the powers conferred under Section 11B of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and rule 36 of the Atomic Minerals Concession Rules, 2016, the Central Government hereby makes the following amendments further to amend the Atomic Minerals Concession Rules, 2016, namely:-

2. (1) These rules may be called the Atomic Minerals Concession (Second Amendment) Rules, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

3. In the Atomic Minerals Concession Rules, 2016, for Schedule A, the following Schedule shall be substituted, namely:-

1.	Beryl and other beryllium - bearing minerals	0.1% BeO (1000 ppm BeO) of the rock or 10kg/tonne Beryl in excavated material.
2.	Lithium bearing minerals	0.5% (5000 ppm) Li_2O in ore, except brine (200 ppm Li, i.e. 200 g/tonne Li).
3.	Minerals of the 'rare earths' group containing uranium and thorium	60 ppm U_3O_8 and/or 250 ppm ThO_2 in ore.
4.	Niobium-bearing minerals	100 ppm $(Nb+Ta)_2 O_5$ (100 g/tonne) in ore.
5.	Phosphorites and other phosphatic ores containing uranium	60 ppm U_3O_8 in ore.
6.	Pitchblende and other uranium ores	60 ppm U_3O_8 in ore, except in Singhbhum Shear zone in Jharkhand where the threshold value will be 150 ppm U_3O_8 in ore.
7.	Titanium bearing minerals and ores (ilmenite, rutile and leucoxene)	In case of titanium-bearing minerals occurring in hard rock, 60 ppm U_3O_8 and/or 250 ppm ThO_2 in the rock. All cases of titanium-bearing minerals occurring in Beach Sand Minerals and other placer deposits in association with monazite are notified as above threshold (i.e. the threshold is 0.00% monazite in Total Heavy Minerals), irrespective of monazite grade.
8.	Tantalum-bearing minerals	100 ppm $(Ta+Nb)_2 O_5$ (100 g/tonne) in ore.
9.	Uraniferousallanite, monazite and other thorium minerals	60 ppm U_3O_8 and/or 250 ppm ThO_2 All cases of Beach Sand Minerals and other placer deposits in association with monazite are notified as above threshold (i.e. the threshold is 0.00% monazite in Total Heavy Minerals), irrespective of monazite grade.

10.	Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.	60 ppm U_3O_8 and/or 250 ppm ThO_2.
11.	Zirconium bearing minerals and ores including zircon.	All cases of zirconium -bearing minerals occurring in Beach Sand Minerals and other placer deposits in association with monazite are notified as above threshold (i.e. the threshold is 0.00% monazite in Total Heavy Minerals), irrespective of monazite grade. In other cases, zircon containing less than 2000 ppm of Hafnium.
12.	Beach Sand Minerals i.e. economic heavy minerals found in the teri or beach sand, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.	All cases of Beach Sand Minerals and other placer deposits in association with monazite are notified as above threshold (i.e. the threshold is 0.00% monazite in Total Heavy Minerals), irrespective of monazite grade.

[F. No. 1/1/2019-M.VI]

NIRANJAN KUMAR SINGH, Jt. Secy.

The Atomic Mineral Concession Rules, 2016 were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide notification number G.S.R. 677(E), dated 11th July, 2016 and last amended vide notification number G.S.R No.126 (E) dated the 19 February, 2019.

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~~ANNEXURE-VIII~~ 112

THIRU.N.MURUGANANDAM, I.A.S.,
PRINCIPAL SECRETARY TO GOVERNMENT

Industries (MMD.1) Department,
Secretariat, Chennai-600 009.
Phone : 044-2567 1383
Fax : 044-2567 0822
E-mail : indsec@tn.gov.in

Letter No.7326/MMD.2/2019, Dated:28.06.2019

Show Cause Notice

Sub: Industries Department - Mines and Minerals – Major Minerals - Beach Sand Minerals – Tirunelveli District - Radhapuram Taluk – Irukkanthurai Village - S.F.No.545 (Eastern Part) – Over an extent of 5.00.0 hectares of Patta land – Mining lease granted to Tvl.V.V.Mineral – Atomic Minerals Concession Rules, 2016 framed – Threshold value prescribed for Atomic Minerals – Atomic Minerals Concession (Second Amendment) Rules, 2019 – Threshold value amended - Premature Termination of existing Mining Leases – Decision taken by the Central Government under Section 4A(1) of the MM(DR) Act, 1957 – Issue of Show Cause Notice – Explanation called for – Regarding.

Ref:
1. Proceedings of the Director of Geology and Mining in Rc.No.6393/MM7/2000, dated 17.03.2004.
2. CGM Proceedings Rc.No.6611/MM7/2011, dated 01.12.2012.
3. Ministry of Mines, Government of India Notification G.S.R. 677(E), dated 11.07.2016.
4. Orders of the Hon'ble Division Bench of Madras High Court dated 27.03.2017 and 21.01.2019 in Suo-Motu PIL W.P.No.1592 of 2015 and the connected matters.
5. Ministry of Mines, Government of India, Notification G.S.R. 126(E), dated 19.02.2019.
6. Ministry of Mines, Government of India, Notification G.S.R. 134(E), dated 20.02.2019.
7. Ministry of Mines, Government of India, Order in F.No.1/1/2019-M.VI, dated 01.03.2019.

*****

In the reference 1st cited, Tvl.V.V.Mineral have been granted with a mining lease for mining Garnet, Ilmenite and Rutile over an extent of 5.00.0 hectares of Patta lands in S.F.No.545 (Eastern Part) of Irukkanthurai Village, Radhapuram Taluk, Tirunelveli District for a period of 20 years under the provisions of the Mines and Minerals (Development

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and Regulations) Act, 1957 and the Mineral Concession Rules, 1960. The lease deed was executed on 11.04.2005.

2. In the reference 2nd cited, orders were issued for inclusion of Sillimanite, Leucoxene, Zircon and Monazite in the mining lease granted to Tvl.V.V.Mineral in the subject area vide Proceedings of the Director of Geology and Mining in Rc.No.6393/MM7/2000, dated 17.03.2004.

3. The Ministry of Mines, Government of India vide Notification S.O.No.2356(E), dated 11.07.2016 made amendment to Part-B, "Atomic Minerals" in the First Schedule of Mines and Minerals (Development and Regulation) Act, 1957 by which a new entry, viz. No.12 was added which provided as follows:-

> "12. Beach sand minerals, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite."

4. The Ministry of Mines, Government of India vide Notification G.S.R. 677(E), dated 11.07.2016 framed the Atomic Minerals Concession Rules, 2016 which came into force on 11.07.2016. According to Rule 2(1)(b) of Atomic Minerals Concession Rules, 2016, "atomic minerals" means minerals specified in Part-B of the First Schedule to the Act; and as per Rule 2(1)(C) of AMCR, 2016, "Beach Sand Minerals" means economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite. As per Rule 2(1) (m) of AMCR, 2016 "threshold value" means the grade of atomic mineral, specified as percentage of weight of the prescribed substances contained in the ore, to be specified and notified by the Department from time to time in Schedule A as the threshold value for the particular atomic mineral occurring as such or in association with one or more minerals. Whereas, Schedule A of Atomic Minerals Concession Rules, 2016, prescribes particulars of threshold value for atomic minerals. The threshold value was prescribed as 0.75% Monazite in Total Heavy Minerals, in the case of Zirconium bearing minerals and ores, including Zircon occurring in Beach Sand Minerals in association with Monazite.

5. Rule 3(1) of AMCR, 2016 stipulates that these rules shall apply only to mineral concessions relating to atomic minerals occurring as such or in association with one or more other minerals, provided the grade of such atomic minerals is equal to or more than the threshold value. As per Rule 3(2) of AMCR, 2016, Mineral Concessions relating to Atomic Minerals, where the grade of atomic minerals contained in the ore is less than the threshold value will be governed by the provisions of Minerals

(Other than Atomic and Hydrocarbons Energy Minerals) Concession Rules, 2016 in force. As per Rule 4 (5)(b) of AMCR, 2016, if the grade of atomic minerals is equal to or above the threshold value, then a mining lease shall be granted by the State Government only in accordance with these rules. Granting of mineral concessions relating to atomic minerals to a Government Company or Corporation owned or controlled by the Government are governed by the provisions of Rule 3(1), 4 (5) (b), 5 and 6 of AMCR, 2016.

6. Whereas, in exercise of the powers conferred under Section 11B of the Mines and Minerals (Development and Regulation) Act, 1957 and Rule 36 of the AMCR, 2016, the Central Government has amended AMCR, 2016 vide G.S.R. 134(E) dated 20th February, 2019 called the Atomic Minerals Concession (Second Amendment) Rules, 2019. Whereas, the Schedule A of the AMCR, 2016 prescribing the particulars of threshold value for atomic minerals has been substituted by the Second Amendment to AMCR, 2016 vide G.S.R. 134(E) dated 20th February, 2019, and the threshold values for:

(i) Titanium bearing minerals and ores (Ilmenite, Rutile and Leucoxene);

(ii) Uraniferousallanite, monazite and other thorium minerals;

(iii) Zirconium bearing minerals and ores including zircon;

(iv) Beach Sand Minerals i.e. economic heavy minerals found in the teri or beach sand, which include Ilmenite, Rutile, Leucoxene, Garnet, Monazite, Zircon and Sillimanite;

occurring in Beach Sand Minerals and other placer deposits in association with monazite are notified as above threshold (i.e. the threshold is 0.00% monazite in Total Heavy Minerals), irrespective of monazite grade.

7. In view of the above amendment made to Schedule A of Atomic Minerals Concession Rules, 2016, all the existing Mineral Concessions of Beach Sand Minerals are above the threshold value. As a consequence of the amended threshold value, mining operations for Beach Sand Minerals and other Placer Deposits can only be carried out by Central Government/State Government Companies/Corporations owned or controlled by it as stipulated under Rule 3(1), 4(5)(b), 5 and 6 of the Atomic Minerals Concession Rules, 2016.

8. Whereas, Ilmenite, Rutile, Leucoxene, Monazite, Zircon, Sillimanite and Garnet occur as a group of associated minerals with varying concentration in Beach Sands and other placer deposits, the Central Government is of the opinion that Monazite being the primary

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source of Thorium and Rare Earth, occurring in association with Beach Sand Minerals, any loss or leakage of Monazite or Zircon due to mineral processing or handling of Beach Sand Minerals will be significant loss to the Country, besides affecting National Security. In view of protecting and conserving the critical elements viz. Rare Earths, Thorium, Zirconium and Hafnium occurring in Beach Sand Minerals towards meeting the future strategic needs, the Central Government is of the opinion that it is expedient to regulate the mines & mineral development and conservation of Beach Sand Mineral resources.

9. In view of the facts and circumstances stated above, in exercise of the powers conferred under Section 4A(1) of the Mines and Minerals (Development and Regulation) Act, 1957, the Central Government, after consultation with the State Governments decided vide order dated 01.03.2019, that it is expedient in the interest of regulation of mines and minerals development and conservation of mineral resources to prematurely terminate all the existing mineral concessions of Beach Sand Minerals held by private persons/companies in the Country and directed the State Government to take necessary action as per provisions of Section 4A(1) and 4A(3) of MM(DR) Act, 1957, vide reference 7th cited.

10. The Suo-Motu PIL W.P.No.1592 of 2015 filed by the Registrar General, Madras High Court in connection with illegal mining of Beach Sand Minerals is pending before the Hon'ble Division Bench of Madras High Court. The Hon'ble Division Bench of Madras High Court, by its order dated 27.03.2017 in the Suo-Motu PIL W.P.No.1592 of 2015 ordered that the Central Government shall take effective steps as a policy decision and regulate the process of mining and restrict the licence in respect of Monazite. The Hon'ble Division Bench of Madras High Court by order dated 21.01.2019 in the Suo-Motu PIL W.P.No.1592 of 2015 made it clear that Suo-Motu Public Interest Litigation covers all Beach Sand Minerals, pertains to alleged unauthorized/Illegal extraction of minerals, transportation and other associated alleged illegal or unlawful activities.

11. Under the circumstances stated above, you are hereby directed to show cause as to why the mining lease granted in favour of Tvl.V.V.Mineral for mining Garnet, Ilmenite, Rutile, Sillimanite, Luecoxene, Zircon and Monazite over an extent of 5.00.0 hectares of Patta lands in S.F. No. 545 (Eastern Part) of Irukkanthurai Village, Radhapuram Taluk, Tirunelveli District, vide reference 1st and 2nd cited should not be prematurely terminated, under Section 4A(1) of the MM(DR) Act, 1957 and to send your explanation within 15 days from the date of receipt of this notice.

12. As prescribed u/s 4A(3) of the MM(DR) Act, 1957, opportunity of hearing is to be offered and accordingly, you are hereby directed to appear in person before the undersigned on **22.07.2019** at **05.30** P.M. failing which it will be construed that you have no remarks to offer and the matter will be decided based on the available records.

13. Copies of Notifications dated 19.02.2019 and 20.02.2019 along with a copy of Order in F.No.1/1/2019-M.VI, dated 01.03.2019 of the Ministry of Mines, Government of India are enclosed for your reference.

14. The receipt of this notice may be acknowledged by return of post.

(N.MURUGANANDAM)
PRINCIPAL SECRETARY TO GOVERNMENT

To

Tvl. V.V. Mineral
Keeralkaranthattu,
Tisayanvillai,
Tirunelveli District-627657 (w.e.).

Copy to:

1. The Director of Geology and Mining, Chennai – 32.
2. The District Collector, Tirunelveli.
3. The Director, Atomic Minerals Directorate, Begumpet, Hyderabad.
4. The Regional Controller of Mines, IBM, Chennai.

ITEM NO.7 COURT NO.1 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.10498/2019

(Arising out of impugned final judgment and order dated 21-01-2019 in WP No. 1592/2015 passed by the High Court of Judicature at Madras)

M/S V.V. MINERAL & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(For interim relief)

WITH S.L.P.(C) No.10669/2019 (XII)
(For interim relief)
S.L.P.(C) No.11776/2019 (XII)
(For interim relief)
Diary No.13631/2019 (XII)
(With appln.(s) for permission to file SLP, exemption from filing c/c of the impugned judgment and interim relief)

Date : 04-07-2019 These petitions were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Sidharth Luthra, Sr. Adv.
Mr. Guru Krishna Kumar, Sr. Adv.
Mr. S.L.M. Bharathi, Adv.
Mr. Udayaditya Banerjee, AOR
Ms. Ayushi Sharma, Adv.

Mr. V.K. Shukla, Sr. Adv.
Ms. Parul Shukla, AOR

Validity unknown
Digitally signed by
Date: 2019.07.04
17:04:05 IST
Reason:

For Respondent(s) Mr. K.K. Venugopal, AG
Ms. Narmada Sampath, AAG
Mr. M. Yogesh Kanna, AOR
Mr. S. Partha Sarathi, Adv.

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UPON hearing the counsel the Court made the following
O R D E R

Permission to file the special leave petition is granted.

We have heard Shri Mukul Rohatgi, learned senior counsel for the petitioners and Shri K.K. Venugopal, learned Attorney General for the State of Tamil Nadu.

The limited prayer made on behalf of the petitioners is that the Writ Petition No.1592 of 2015, in which the present impugned order has been passed, be heard with the connected matters i.e. Writ Appeal Nos.1168, 1169, 1220 and 1221 of 2015 and the cases be disposed of at the earliest, preferably within a time frame of four weeks.

Shri Rohatgi, learned senior counsel has further submitted that an interim prayer for transportation of the legally mined minerals prior to 2013 may be permitted to be urged before the High Court. Shri Venugopal, learned Attorney General has no objection to the same.

In view of the aforesaid, we request the High Court to dispose of the writ petition along with the connected matters, as mentioned above, as expeditiously as its business would permit and in the event it becomes so necessary, the petitioners should also be permitted to urge the interim relief, terms of which have been noted above. The contentions that may be open in law to the State of Tamil Nadu may be urged before the High Court.

We further request the Chief Justice of the Madras High Court to make the designated Bench available for hearing of the matter.

With the aforesaid, the special leave petitions are disposed of.

Pending application(s), if any, stand disposed of.

(Chetan Kumar)
A.R.-cum-P.S.

(Anand Prakash)
Court Master

-120.

ITEM NO.59 COURT NO.1 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

M.A.No.1406/2019 in SLP(C)No.10498/2019

M/S V.V. MINERAL & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
(For directions)

Date : 02-08-2019 This matter was called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Mukul Rohatgi,Sr.Adv.
Mr. S. Elambharati,Adv.
Mr. Udayaditya Banerjee,AOR
Mr. Turai,Adv.
Ms. Devanshi,Adv.

For Respondent(s) Mr. K.K. Venugopal,AG
Mr. Narmada Sampath,Adv.(AAG)
Mr. M. Yogesh Kanna,AOR
Ms. Mega Aggarwal,Adv.
Mr. S. Partha Sarathi,Adv.
Mr. Raja Rajeshwaran,Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the parties.

The Chief Justice of the High Court would be at liberty to ensure that the two Judges, who are on the Bench hearing the matter, sit either in Madras or in Madurai, as may be convenient.

Miscellaneous application stands disposed of.

Validity unknown
Digitally signed by SARITA PUROHIT
Date: 2019.08.08 13:40:25 IST
Reason:

(Anand Prakash)
Branch Officer

(Sarita Purohit)
AR-cum-PS

Part - C - Chart - 2 series (a - f)

Consolidated Summary of Royalty and Cost of Mineral due arrived by BSM transported by the Lessees

Royalty and Cost of Mineral to be recovered from the Leaseholders / Plant owners for Unlawful / Illegal Transport of BSM from 2000-01 to 2013-14 (Pre Ban Period - Period when transport permits were issued)

				Part - A	Part - B	Part - C	
Sl. No.	Name of the Lessee / Plant owner	Period	Quantum of BSM unlawfully transported (in MT)	Royalty due to be recovered for unlawful transport of BSM (in Rs.)	Cost of Mineral due to be recovered for BSM unlawfully transported (in Rs.)	Royalty and Cost of Mineral due to be recovered for BSM unlawfully transported (in Rs.) [5 + 6]	Reference
1	2	3	4	5	6	7	8
1	Tvl. V.V. Mineral **(R8, R22)**	2000-01 to 2013-14	33,27,489	59,51,22,388	26,08,56,00,977	26,68,07,23,364	Part - C - Chart - 2 a
2	Tvl. Transworld Garnet India(P) Ltd., **(R 9)**	2000-01 to 2013-14	6,14,786	8,20,59,515	2,73,55,95,248	2,81,76,54,762	Part - C- Chart -2 b-i & 2 b-ii
3	Tvl. Industrial Mineral India (P) Ltd., **(R13)**	2011-12 to 2013-14	42,092	1,77,78,196	80,73,91,147	82,51,69,343	Part - C - Chart - 2 c
4	Tvl. Beach Mineral Sands Company **(R10)** & Tvl. Beach Mineral Company (P) Ltd., **(R 17)**	2001-02 to 2012-13	8,65,503	12,87,44,976	4,83,17,23,470	4,96,04,68,446	Part - C - Chart - 2 d
5	Thiru. M. Ramesh **(R 11)**	2000-01 to 2012-13	2,41,819	3,66,59,701	1,13,83,32,533	1,17,49,92,234	Part - C - Chart - 2 e
6	Thiru. K. Thangaraj **(R 12)**	2001-02 to 2012-13	2,49,973	5,35,53,557	1,78,51,18,576	1,83,86,72,133	Part - C - Chart - 2 f
Total			**53,41,662**	**91,39,18,332**	**37,38,37,61,951**	**38,29,76,80,283**	
				Total in Crore Rupees		**3,829.77**	

Source:

AC.Vol.1 Annexure, AC.Vol. 11 & 12

Part - C - Chart - 3 series (a - e)

Consolidated Summary of Royalty and Cost of Mineral due arrived for BSM exported by the Lessees / Plant Owners

Royalty and Cost of Mineral to be recovered for Illegal Export of BSM from 2014 to 2016 (Post Ban Period)

Sl. No	Lessee / Plant owners	Period	Total quantum of BSM illegally exported after Ban (in MT)	Royalty due for the quantum of BSM illegally exported after Ban (in Rs.)	Cost of Mineral due for the quantum of BSM illegally exported after Ban (Sale value realised as per Customs data) (in Rs.)	Total due for the quantum of BSM illegally exported after Ban (in Rs.) ((5) + (6))	Reference
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	V.V. Mineral **(R8, R22)**	2014 to 2016	7,70,200	30,04,94,387	8,82,99,58,451	9,13,04,52,838	Part - C - Chart - 3 a
2	Transworld Garnet India (P) Ltd., **(R 9)**	2014 to 2016	1,45,705	7,56,09,210	1,89,02,30,255	1,96,58,39,465	Part - C - Chart - 3 b
3	Beach Minerals Sands Company & their sister concerns **(R10, R16, R18, R19)**	2014 to 2016	4,23,261	11,67,89,797	4,13,97,22,974	4,25,65,12,771	Part - C - Chart - 3 c
4	Indian Ocean Garnet Sands Company and Indian Ocean Garnet Sands Company (P) Ltd., (M.Ramesh **(R 11)** & K.Thangaraj **(R 12)**)	2014 to 2016	1,38,122.71	7,35,79,698	1,83,94,92,447	1,91,30,72,145	Part - C - Chart - 3 d
5	Industrial Mineral Company **(R15)**	2014 to 2016	2,84,536	7,18,38,180	2,68,90,28,153	2,76,08,66,333	Part - C - Chart - 3 e
	Total		**17,61,824**	**63,83,11,272**	**19,38,84,32,280**	**20,02,67,43,552**	
				Total in Crore Rupees		**2,002.67**	

Source:
1 Customs data - AC vol-5

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD) No.2671 and 9183 of 2013

M/s.V.V.Minerals
through its Managing Partner,
S.Vaikundarajan
Keeraikaranthattu,
Thisaiyanvilai
Tirunelveli District. ... Petitioner in both W.Ps

vs.

The Secretary,
Government of India,
Department of Atomic Energy,
Anusakthi Bhavan,
C.S.M.Marg
Mumbai. ... Respondent in both W.Ps

PRAYER in W.P.(MD).No.2671/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondent to consider the petitioner's application in accordance with law and to pass suitable order in the application of the petitioner dated 27.08.2012 in accordance with the existing rules and regulations within a time stipulated by this Hon'ble Court.

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http://www.judis.nic.in

PRAYER in W.P.(MD).No.9183/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the Department of Atomic Energy Letter No.7/3(10)/2011-PSU/3156 dated 04.03.2013 of the Department of Atomic Energy and quash the same and direct the respondent to grant the license for cracking monazite in the petitioner's application dated 27.08.2012 and pass appropriate orders in the circumstance of the case.

For Petitioner : Mr.V.Lakshmi Narayanan for
Mr.R.Manivannan

For Réspondents : Mrs.L.Victoria Gowri
Central Govt. Senior Panel Counsel
(In both W.Ps)

COMMON ORDER

W.P.(MD).No.2671 of 2013 has been filed to direct the respondent to consider the petitioner's application in accordance with law and to pass suitable order in the application of the petitioner dated 27.08.2012 in accordance with the existing rules and regulations.

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W.P.(MD).No.9183 of 2013 has been filed, challenging the letter issued by the Department of Atomic Energy in Letter No.7/3(10)/2011-PSU/3156 dated 04.03.2013 and quash the same.

http://www.judis.nic.in

2.According to the petitioner, they are carrying on trade in minor minerals and he applied for grant of license for producing Rare Earth Oxides by cracking monozite. While processing the monoxide, the by-products of monozite i.e Uranium and Thorium will be handed over by the petitioner to the respondent. The process will be monitored by the Officer of the respondent and the petitioner was instructed to pay salary to those Officers and technical Staff. An application was made by the petitioner for getting proper permission/license from the Atomic Energy and Regulatory Board for the aforesaid purpose, but it was rejected by the authorities by way of the impugned order dated 04.03.2013. The said rejection order was confirmed in the appeal preferred by the petitioner, citing the pendency of writ petition before this Court (i.e W.P.(MD).No.2671/2013).

3.The learned counsel for the petitioner would contend that as per the notification issued by the respondent, dated 16.12.2013, the Government has accorded permission to the petitioner to set up a special economic zone. Therefore, according to him, petitioner's application could be considered in accordance with the above development.

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4.The learned counsel for the respondent would contend that as per the latest notification, dated 20.10.2009, the Central Government made some amendments in the earlier notification, dated 25.07.1991. According to the same, the Central Government alone has the right to grant any permission for monozite mining. Therefore, there is no question of granting permission to the petitioner for dealing with monozite.

5.As contended by the respondent, as per the notification issued by the Ministry of Industry dated 25.07.1991, all the materials relating to atomic energy were reserved for public sector. Later, the Government has issued a subsequent notification dated 19.10.2009, wherein, the atomic energy was categorized as under :

> In Schedule-I of the said notification, for item numbers 2 and item number 7 of the entries relating thereto, the following item number and entries shall be substituted namely....
>
> 1.**Atomic Energy**:
>
> (1)Production and separation or enrichment of special fissionable material as follows:
>
> i)Plutonium-239

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ii)Uranium 233, Uranium enriched to the isotopes 235 or 233

iii)Neptunium

iv)Any material containing one or more of the foregoing and

v)Such other fissionable material determined by the Government of India from time to time

2)**Production of following substances or materials:**

i)Heavy water

ii)Tritium

iii)Radium-226

iv)Inriched Bottom (10B) and

iv)Alpha emitting radio nuclids having half life of 10 days or more

3)**Operation of the following facilities**:

....."

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6.After this notification, the petitioner has submitted his application in Form A, dated 27.08.2012 and he sought for processing Rare Earth oxides Plant and Zircon Power Plant. This request was acceded by the Ministry of

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Commerce Industry by notification dated 16.12.2013 permitting the petitioner to set up a Special Economic Zone for Mineral and Mineral based products in Thiruvambalpuram Village, Radhapuram Taluk, Tirunelveli. However, the respondent has rejected the request of the petitioner on 04.03.2013. para 5 of the said order reads as under:

"5.While Monozite is a very stable beach sand mineral, and can be left in nature of stored indefinitely without degradation or leaching, the process of cracking of Monozite to remove rare-earth bearing compounds results in highly radioactive thorium and uranium in chemical forms that are chemically active and are vulnerable to leaching and loss on prolonged storage. Production of separated radio-active chemical forms of uranium and thorium, through the processing/cracking of monazite, in quantities unrelated to and much more than those required to meet the needs of the atomic energy programme/application of the country gives rise to substantial risks of loss, leakage and seepage of these separated radio-active chemical forms of uranium and thorium in the process of transportation, handing and storage. The risks due to radiation, to the general public, in an unchecked and commercially-motivated processing/cracking of monazite for extracting mixed

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rare earth chlorides/compounds are too high and completely avoidable. In these circumstances, the Department of Atomic Energy, under the provisions of Atomic Energy Act, 1962, and the Atomic Energy (Working of Mines, Minerals and Handing of Prescribed Substances) Rules 1984, and the Government of India's overall policies for industrial development, is restricting the grant of licenses for such processing of monazite only to fully-owned Public Sector Undertakings of the Government of India. Lastly, in view of the foregoing discussion and statutory provisions, it is considered not to be in public interest to open this activity to private sector."

7.According to the petitioner, in view of the approval granted to him by the Union of India vide notification dated 16.12.2013, the authorities can have a relook on the issue and pass appropriate orders and in that event of passing an order by the respondent, as per the latest rules and regulations, within a limited time frame specified by this Court, he will restrict his prayer to that effect.

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8.It is no doubt that the Government is the ultimate authority to take a policy decision as to whether permit the radioactive materials in chemical

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form of thorium and uranium to be stored by the public sector or private sector.

9.The impact of the impugned order reveals that the materials which the petitioner sought to break and segregate are radioactive materials and even a slightest negligence would cause hazardous effects on lakhs and lakhs of people. Therefore, in a sensitive matter like this, it is fit and proper that the concerned authority should take a decision.

10.The petitioner submits that he will abide himself as per the relevant statutes and on compliance of the undertaking given by the petitioner that he will get permission from the Atomic Energy Regulatory Board, Ministry of Commerce and Industries and Ministry of Mines should consider the representation of the petitioner in the light of the latest notifications and pass orders. It is made clear that this order of this Court will not be an impediment to consider all the relevant aspects and take a decision either to accept or reject the same or to modify its previous orders as expeditiously as possible preferably, not later than 6 months from the date of receipt of a copy of this order. In the process, the petitioner shall be given an opportunity of personal hearing to put forward all the materials.

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11.In view of the above discussion, a direction is given to the respondent to consider the application of the petitioner, dated 27.08.2012, in the light of all the relevant materials and pass appropriate orders in accordance with law.

12.In the result, both the writ petitions are disposed of. No costs.

26.09.2019

Index : Yes / No
Internet: Yes / No
vs
To:
The Secretary,
Government of India,
Department of Atomic Energy,
Anusakthi Bhavan,
C.S.M.Marg
Mumbai.

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M.GOVINDARAJ,J.

VS

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26.09.2019

http://www.judis.nic.in

IN THE HIGH COURT OF JUDICATURE AT MADRAS, MADURAI BENCH
(SPECIAL ORIGINAL JURISDICTION)

W.P. (MD). 3188 of 2020

S. Vaikundarajan,
Son of A.S.V. Subbiah Nadar,
Managing Partner
V.V.Mineral,
17C, Keeraikaranthattu,
Tisaiyanvilai, Tirunelveli District. ....Petitioner

Versus

The State of Tamil Nadu
Represented by its Principal Secretary to Govt.,
Industries (MMD.2) Department,
Secretariat, Fort St. George,
Chennai-600 009. ...Respondent

AFFIDAVIT OF S. VAIKUNDARAJAN

I, S. Vaikundarajan, Son of A.S.V.Subbiah Nadar, Hindu, aged about 65 years, residing at 17C, Keeraikaranthattu, Tisaiyanvilai, Tirunelveli District, now at Madurai, do hereby solemnly affirm and sincerely state as follows: -

1. I am the petitioner. I am well acquainted with the facts and circumstances of the case. I have filed this petition seeking for a writ in the nature of a WRIT OF CERTIORARIFIED MANDAMUS or any other appropriate writ or direction to call for the records on the file of the respondent in letter No.7336/MMD.II/2019-2, dated 31.01.2020 and quash the same as illegal, incompetent and without jurisdiction and to further direct the respondent to furnish the documents sought for by the petitioner in and by way of his letter dated 01.08.2019 and for consequential orders.

2. I am the Managing Partner of a partnership firm - M/s.V.V.Minerals. This firm has been granted with mining leases for the purpose of mining garnet, Ilmenite, rutile and other beach sand minerals. The said lease was granted under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as MMDR Act, 1957) and Mineral Concession Rules, 1960 (hereinafter referred to as MCR, 1960).

3. I state that the petitioner has been carrying on the business and has invested several crores of rupees in creating infrastructure and installing

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machinery required for separation of the minerals. The firm has not only been selling the minerals in the local market but has also concentrating on export of the minerals.

4. The contribution of the firm has recognised by CAPEXIL. This is a non-profit making organization, setup in March 1958, by the Ministry of Commerce, Government of India. It is an organisation which promotes export of Chemical and Allied Products from India. The group won the CAPEXIL *"Special Export Award"* consecutively for 21 years from 1990 – 1991 to 2009 – 2010. It secured the *"Top Export Award"* for the year 2101- 2011. As recently as in September of 2019, Shri. Piyush Goyal, the Minister of Commerce and industries handed the award to the petitioner for the highest exporter of processed minerals for the fiscal year, 2015 – 2016 and 2016 – 2017.

5. Apart from this recognition from the Union of India, the petitioner won the Best Exporter award from the Indian Chamber of commerce and Industry – Tuticorin consecutively for 12 years from 2000 onwards. The National Productivity council awarded the "National Productivity Award" to the petitioner in 2000. It is pertinent to note here that the award was handed over by His Excellency the President of India, Shri. K.R. Narayanan. For the high standards maintained by the firm, the prestigious "MADITSSIA – VISVESWARAYA" award was conferred on the firm. The firm has developed high technological tools and it has been certified by TUV for maintain ISO 9001-2008, ISO 14001, OHSAS 18001 IN April, 2011. The EPCES (Export Promotion council for EOU's and SEZ's) yet again a unit under the Ministry of Commerce and Industry, Government of India conferred the best exporter award on the firm. Last week, V.V. Minerals contribution in the field of mineral separation and export was recognised by the prestigious Berkshire Media Pvt Limited. It has been selected as "*India's Best Company of the year 2020*". The award is to be presented on 5th of April, 2020 at The Leela Hotel, Mumbai.

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6. The aforesaid awards will certify that to the hard work and dedication of its partners, employees and staff. The petitioner has been earning vital foreign income for the country. Apart from this, the petitioner has been employing about 4750 persons in its activities directly. Apart from this, due to the downstream effect of the business, more than 15000 persons are gainfully employed. The growth of the group instead of earning appreciation from its peers, increased angst and resulted in unfounded propaganda against it. This led to repeated filing of complaints and cases before the courts. Though the respondent had rejected several complaints made against the group, a few vested and disgruntled elements moved this Hon'ble Court by way of a writ petition. The petitioner was forced to withdraw from the writ petition. As of now, that petition has been converted into a *Suo motu* proceeding and the same is pending. The petitioner has placed all the records before the court to satisfy it that all is well with the firm and the allegations are borne out by professional jealousy and other unworthy motives. Be that as it may, the same are not germane for the present writ petition.

7. I state that the cause of action of this writ petition is a showcause notice issued by the respondent on 28.06.2019. This show cause notice seeks to invoke the powers vested in the respondent under Section 4A of the MMDR Act. In the said notice, the respondent had stated that the Ministry of Mines, Government of India in Notification No.S.O.2356 (E), dated 11.07.2016 had amended the ISchedule of the MMDR Act, 1957. By this amendment, beach sand minerals were included as atomic minerals. During that time, the threshold of monazite was prescribed as 0.75%. It further stated that in the exercise of the power under Section 11A of MMDR Act and Rule 36 of the Atomic Mineral Concession Rule 2016 the Central Government amended the threshold limit of monazite and reduced it to 0.00%. This was titled as Atomic Mineral Concessions (Second Amendment) Rules, 2019. This amendment came into force on 20.02.2019.

8. It was also stated that as the Central Government is of the opinion that handling of monazite might lead to significant loss to the country that is

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expedient to regulate the beach sand mineral resources. It was further alleged that a consultation was taken place on 01.03.2019 between the Central Government and the State Government and that any exercise of powers conferred under section 4-A(1), it directed the State Government to take necessary action under section 4-A(1) and 4-A(3) of the MMDR Act. After referring to these proceedings, the show cause notice was issued as to why the lease should not be prematurely terminated.

9. I state that when the notice was issued, I was hospitalised. This fact was brought to the notice of the respondent and a few days' time for filing a reply was sought for. Immediately on recovery, a reply was sent on 01.08.2019. I informed the respondent that I spent several Crores of rupees on creating infrastructure and that if the show cause notice is confirmed, it will be proprietary and penal. Inter alia, I raised the following grounds : -

I. While a copy of the amendments referred to in the show cause notice and the letter sent to all the State Governments by the Director of Ministry (Mines) and the Joint Secretary to Government of India had been enclosed, the other documents had been withheld.

II. I sought for : -

a) details of discussions made,

b) who were the stake holders department / state governments who had participated in the discussion held on 22.02.2019 and the notes thereon,

c) letter of the Central Government calling for discussion (c) agenda for the discussion and

d) the reply given by the State of Tamilnadu together with connected records.

I sought for these details as Section 4-A having disastrous and deleterious consequences. Without these details, I pointed out that no effective reply can be given to the show cause notice.

e) I also stated that the amendments and Rules do not have retrospective effect.

f) though the notice fixed about loss to the Central Government, it does not utter a single sentence as to how these minerals were wasted during processing and handling.

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g) I further stated that M/s. V.V. Mineral is scrupulously adhering to the handling of monazite and that there is no loss of monazite at our end.

h) I pointed out that the show cause notice seemed more like of direction from the Central Government rather than as a need to conserve and regulate beach sand mining

i) As Section 4-A demands a consultation between the State and Central Governments, I wanted to peruse the same before giving reply.

j) I also pointed out that reference to Suo Motu W.P. 1592 of 2015 has no relevance to Section 4A and orders of court have no role to play when it comes to the power to be exercised under Section 4A,

k) If the intention is to protect monazite, thorium and other radioactive substances, then the mining activities relating to limestone, Granite, Tin, Iron Ore, Lignite, Coal have to be cancelled

l) Under the guise of the regulation, Government cannot prohibit activities. I also showed the primary use of the several minerals referred to therein.

m) I also stated that there cannot be a generalized order under Section 4A but each lease has to be considered on its merits.

n) I further stated that when the Government of India has permitted the export of the minerals it shows that nothing seen for premature termination.

While undertaking to give a detailed reply, I requested the respondent to provide me with the following details : -

"1. The details of the discussion took place on 22.2.2019 in the ministry of Mines, Government of India and also the details of the stakeholder department/ state government who participated in it.

2. The Letter sent by the Central Government to the TamilNadu Government and the copy of the agenda for the discussion that was mentioned in the notice.

3. The Copy of the reply given by the TamilNadu Government in response to the agenda of the Central Government that was mentioned in the notice with regard to the discussion.

4. To submit the above said reply to the discussion dated 22.2.2019, the Tamil Nadu Government received order through a circulation note and with regard to that the order issued by the Government and the notification regarding the same made in the official gazette.

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5. On the basis of this, to furnish the copy of the record note that contains the conclusion of the discussion made on 22.2.2019 by Ministry of Mines, Government of India.

6. Data as to how monazite and zircon is wasted during its mining, processing and handling."

I crave leave of this Hon'ble Court to consider the interim reply given by the petitioner as part and parcel of this affidavit.

10. On this basis, I had requested the respondent to give those documents and also being an expropriatory with disastrous conveniences, unless the documents relied upon by the respondent are perused, I would not be in a position to effectively respond to the same. Further, the respondent is not the authority, who can initiate and conclude the proceeding under Section 4A (1) of the MMDR Act. It is the Central Government and not the State Government which can invoke the power under Section 4A (1). As per that provision, it is the Central Government which should first consult the State Government and thereafter, hear the parties as required under Section 4A (3), apply its mind to the circumstances of each lease. If thereafter, it comes to the conclusion that the lease should be terminated, then it should request the State Government. Curiously enough, the State Government has usurped the power of the Central Government and had issued the notice. It is for that purpose that the petitioner had sought for the documents. To that end, I had also made a request to the Central Government seeking for documents connected with the show cause notice.

11. As per the statute, I am entitled to give a response to the show cause notice. The section itself contemplates an opportunity to the affected parties. A notice is entitled to state as his objection that condition precedent for invocation of Section 4A have not been complied with. This can be deciphered only from the documents. If the same are not given, the purpose of hearing the petitioner would be only be illusionary.

12. I state that this interim reply was sent on 01.08.2019 and received by the respondent. I did not hear from the respondent for over 6 months. To my shock and surprise, I received the impugned order whereby the respondent

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has taken a decision that since the disclosure of the same is prohibited under the Right to Information Act, 2005, he will not furnish me the copies of the documents sought for. It is this order also challenging in this Writ Petition.

13. I state that no other alternative or efficacious remedy than to approach this Hon'ble Court invoking jurisdiction under Article 226 of the Constitution of India on the following

GROUNDS

A. That the order of the respondent is ex-facie illegal, untenable, arbitrary and violative of Article 14 and 19 of the Constitution of India and Section 4-A of the Mines and Minerals Condition and Regulation Act, 1957.

B. That the respondent ought to have seen the issuance of a show cause notice and receipt of the reply is not an empty formality. It is governed by the statute and the purpose of the notice is for objections on the proposed action.

C. The issuance of the show cause notice implies that the objections sought for should be effective and the opportunity granted should not be rendered illusory. It is the duty of the authority to furnish documents that he refers to in the show cause notice. By withholding the documents, the basis on which the show cause notice has been issued,the very purpose of the parliament brining in reasonable opportunity to show cause is being defeated.

D. That the respondent should have seen the petitioner is not a third party to the proceeding but has vested right by virtue of the lease executed in his favour. He has a right to make an objection and this is a right granted to him by Section 4A. If the documents are withheld, the petitioner will be totally in dark as to why action is being initiated.

E. That the respondent should have seen that notice under Section 4-A is independent in nature and not nature of class action. The reasons given for each notice defends and therefore each notice for each of the State is

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entitled to copy of the documents relied upon before respondent to the show cause notice.

F. That the respondent does not have the option to withheld documents on its discretion and called upon the petitioner to fight a battle after tying his hands.

G. The petitioner is entitled to know if the consultation had actually taken place and if the consultation was with the appropriate departments. Failure to comply with the conditions of Section 4A renders the entire proceeding void. The petitioner suspects that it is for that reason that the respondent is refusing to disclose the documents sought for.

H. That the respondent should have seen that the Right to Information Act, 2005 has absolutely no relevance in the present case as the petitioner is not third-party seeking documents but affected party, who is entitled to know the reason and basis for which notice has been issued under Section 4-A.

I. That the impugned order suffers from the vice of non-application of mind. When show cause notice is issued under Section 4A and the petitioner has sought for documents that the respondent has relied upon, it is perverse to apply the right to information act to the petitioner.

J. That the respondent should have seen that the petitioner has not sought for information under the RTI Act but as a person aggrieved by the proposed action. To read the provisions of the Right to information Act to interpret the MMDR Act and rules is per illegal. It reflects the predetermined nature of the respondent not to give documents at any costs.

14. I state that after rejected the request for the documents, the respondent has posted the matter for inquiry to 20.02.2020. If the respondent is permitted to proceed with the enquiry without furnishing the documents, the very purpose of the enquiry would be vitiated. Unless the petitioner needs reason for which invocation of Section 4-A of the MMDR Act, he will be seriously prejudiced and totally handicapped from giving reply. This has already been

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stated in the interim reply. The documents sought for are as per the provisions of the Act itself.

15. In the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to grant STAY of all further proceedings pursuant to the impugned order of the respondent in letter No.7336/MMD-2/2019-2 dated 31.1.2020, pending the Writ Petition and thus render justice.

16. For the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to issue a Writ or direction or order, more in the nature of a WRIT OF CERTIORARIFIED MANDAMUS calling for the records of the ~~first~~ respondent in letter No.7336/MMD-2/2019-2, dated 31.1.2020 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

quash the same and Provide relevant documents as sought for by the Petitioner in Reply dtd. 1/8/19

Solemnly affirmed at Madurai
on this the 10th day of February
2020 and signed his name
in my presence.

Before me

Advocate: Madurai

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IN THE HIGH COURT OF JUDICATURE AT MADRAS, MADURAI BENCH
(SPECIAL ORIGINAL JURISDICTION)

W.P. (MD). of 2020

S. Vaikundarajan,
Son of A.S.V. Subbiah Nadar,
Managing Partner
V.V.Mineral,
17C, Keeraikaranthattu,
Tisaiyanvilai, Tirunelveli District. ....Petitioner

Versus

The State of Tamil Nadu
Represented by its Principal Secretary to Govt.,
Industries (MMD.1) Department,
Secretariat, Fort St. George,
Chennai-600 009. ...Respondent

WRIT PETITION

The address for service of all notices and processes on the petitioners is that of their counsel M/s. KINGSLY SOLOMON J, K.ARAVINTHA BHARATHI & P.P. ALWIN BALAN at 14 A, Ram Nagar, Uthangudi, Madurai- 625 107.

The address for service of all notices and processes on the respondents is the same as stated above in the cause title.

For the reasons stated in the accompanying affidavit, the petitioners herein prays that this Hon'ble Court may be pleased to issue a Writ or direction or order, more in the nature of a WRIT OF CERTIORARIFIED MANDAMUS calling for the records of the first respondent in letter No.7336/MMD-2/2019-2, dated 31.1.2020 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Dated at Chennai on this the 10th day of February, 2020.

Counsel for Petitioner.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)Nos.3178, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3191 and 3193 of 2020
and
W.M.P(MD).Nos.2702, 2704, 2705, 2706, 2708, 2707, 2709, 2710, 2711, 2712, 2713 and 2714 of 2020

W.P(MD).No.3178 of 2020

S.Vaikundarajan ... Petitioner

Vs.

The State of Tamil Nadu,
rep., by its Principal Secretary to Government,
Industries (MMD.2) Department,
Secretariat, Fort St.George,
Chennai 600 009. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in letter No.7261/MMD-2/2019-2 dated 31.01.2020 and quash the same and provide the relevant documents as sought for by the petitioner in reply dated 01.08.2019.

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For Petitioner : Mr.Kingsly Solomon J.
For Respondent : Mrs.J.Padmavathidevi
Special Government Pleader

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COMMON ORDER

These Writ petitions have been filed in the nature of Certiorarified Mandamus seeking a direction to call for the records of the respondent namely the Principal Secretary to Government Industries (MMD.2) Department of the State of Tamil Nadu in letter No.7261/MMD-2/2019-2, dated 31.01.2020 and set aside the same.

2.In all these writ petitions, the impugned order is dated 31.01.2010. The only difference is that orders were passed with respect to separate mining leases, which, according to the learned counsel for the petitioner, are still subsisting. Originally, the petitioner was issued with a show cause notice dated 28.06.2019. This show cause notice was issued with respect to the mining leases under the provisions of the Atomic Minerals Concession Rules, 2016, and Atomic Mineral Construction (Second Amendment) Rules 2019, whereby, the respondent namely the Principal Secretary to the Government, after stating out various reasons, called upon the petitioner herein to appear in person on a particular date, namely 22.07.2019 at 05.30 pm., failing which, it was stated that it will be presumed that the petitioner has no remarks to offer.

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3.The show cause notice, issued as stated above, under Section 4A(1) of the Mines and Minerals (Development and Regulation) Act 1957, had stated that the Central Government after consultation with the State Government had decided by order dated 01.03.2019 to regulate quarrying mines and minerals and to conserve minerals resources and therefore, to prematurely terminate all existing mineral concessions of Beach Sand Minerals held by private persons/companies in the country and had therefore, directed the State Government to take necessary action in accordance with Section 4A(1) and 4A(3) of Mines and Minerals (Development and Regulation) Act 1957. It was also mentioned in the notice, which is actually a show cause notice, that a *suo motu* Public Interest Litigation (PIL) in W.P.No.1592 of 2015 had been filed by the Registrar General, Madras High Court in connection with illegal mining of Beach Sand Minerals and the said PIL is still pending before a Division Bench of the Madras High Court. It had also been observed that the said Division Bench by order dated 27.03.2017 had ordered that the Central Government should take effective steps as a policy decision and regulate the process of mining and restrict the license in respect of the mineral Monazite. It was also stated that the order of the Division Bench related to and also covered Beach

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Sand Minerals and particularly to unauthorised/illegal extraction of minerals, transportation and other associated alleged illegal and unlawful activities.

4.In the show cause notice, it has been stated that the writ petitioner herein has been indulging in such alleged unauthorised/illegal extraction of minerals, transportation and other associated alleged illegal and unlawful activities. Under these circumstances, by the show cause notice, the petitioner was directed to answer as to why the mining leases granted in favour of the petitioner Tvl.V.V.Mineral for mining garnet sand over an extent of 1.15.5 hectares of patta lands in S.F.No.1041/3 of Koodangulam Village, Rathapuram Taluk, Tirunelveli District, should not be prematurely terminated under Section 4A (1) of the Mines and Minerals (Development and Regulation) Act 1957. Similar notices were issued to all subsisting mining leases in favour of the petitioner. The only difference, as stated by the learned Special Government Pleader, is that the survey numbers alone were different. The petitioner was called upon to give an explanation within 15 days. A further opportunity of personal hearing was granted. The petitioner was directed to appear in person on 22.07.2019. Today it is 17.03.2020. The petitioner has neither replied to the show cause notice nor had he appeared in person before the respondent.

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5.The learned counsel for the petitioner states that he has given a representation seeking copies of documents as a precondition for appearance. He had sent a representation on 22.07.2019, which has been issued by the Manager, namely K.Nithya Kalyani and had sought for as many as four documents. It had been stated that all the above are missing along with Government of India, Director letter dated 01.03.2018 or Joint Secretary order dated 01.03.2019 and since the said documents were not furnished by the State Government along with the show cause notice and since the notices were issued based on directions issued by the Ministry of Mines, copies of the documents were sought as being essential to reply to the show cause notices.

6.In reply to such request, the present impugned orders were passed. In the impugned orders dated 31.01.2020, the Principal Secretary to Government has stated that the notices were issued to the petitioner seeking reply and also offering personal hearing and it was further noted that the petitioner had not appeared and had also not replied to the show cause notice, but had sought certain documents to be provided. It was thereafter, stated that the request for provision of documents has been examined by the Government and it was stated that the requisite documents were confidential in nature and

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disclosure of the documents were prohibited under Section 8(1)(a) of the Right To Information Act 2005. A further opportunity for appearance was given and the date was fixed on 21.02.2020 at 04.30 pm.

7.The learned counsel for the petitioner claim that the documents sought were neither confidential nor prohibited documents.

8.However, in the representation given on 22.07.2019 seeking copies of the said documents, the reasons as to why those documents were required by the petitioner has not been stated. As stated, the petitioner has not answered the show cause notice. The Manager by name K.Nithya Kalyani had answered the show cause notice and had sought for copies of the documents. It has not been stated in what manner the petitioner is prejudiced by non furnishing of such documents. The relevancy of such documents have not been stated.

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9.It is also not known why provision of these documents can be stated to be a prerequisite or precondition even for personal appearance. The petitioner can very well appear in person before the respondent and explain to him the relevancy of the documents. He neither appeared before the respondent

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nor had he replied to the show cause notice, but states that unless the copies of the documents are given, he would neither appear nor give reply. The conduct of the petitioner has to be condemned.

10.The petitioner, if he is not involved in any illegal unlawful activities as stated in the show cause notice, should have, with due respect to the petitioner, or to whatever organisation he is running, appeared before the respondent. The rule of law is applicable to every individual. The rule of law states that if notice is issued for appearance, there is a duty cast on the petitioner to appear before the respondent. Therefore, I have no hesitation in upholding the impugned orders in the writ petitions in Letter Nos.7261/MMD.2/2019-2, 7320/MMD.2/2019-2, 7323/MMD.2/2019-2, 7321/MMD.2/2019-2, 7331/MMD.2/2019-2, 7325/MMD.2/2019-2, 7326/MMD.2/2019-2, 7322/MMD.2/2019-2, 7336/MMD.2/2019-2, 7329/MMD-2/2019-2, 7337/MMD.2/2019-3 and 7340/MMD.2/2019-3 all dated 31.01.2020 respectively.

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11.The petitioner is directed to appear before the respondent in person. The respondent is also directed to issue a fresh show cause notice

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fixing a date and time for appearance of the petitioner. On that particular date and time, the petitioner should appear and he may explain relevancy of the documents which he seeks and thereafter, the respondent may hear the petitioner with respect to the averments in the show cause notice and proceed further. If the petitioner does not properly respond, the respondent is at liberty to cancel any license of any mineral activity whether they are subsisting or not. The respondent may issue a fresh show cause notice on or before 27.03.2020 fixing a date and time for appearance of the petitioner and if the petitioner does not appear and once again communicates seeking postponement of the hearing, the respondent is at liberty to proceed further to cancel the license of whatever mining license has been leased to the petitioner.

12.It is a wonder how these writ petitions were filed before this Court when *suo motu* W.P.No.1592 of 2015 is under active and continuous consideration of a Hon'ble Division Bench at the Principal Seat.

13.With the above directions, these Writ Petitions are dismissed with costs of Rs.10,000/- (Rupees Ten Thousand only) for each writ petition totally Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only). Connected Miscellaneous Petitions are dismissed.

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14.The petitioner is directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Dean, Government General Hospital, Thoothukudi, a sum of Rs.30,000/-(Rupees Thirty Thousand only) to the Dean, Government Hospital, Tirunelveli, a sum of Rs.30,000/-(Rupees Thirty Thousand only) to the Dean, Government Hospital, Sivagangai and a sum of Rs.30,000/- (Rupees Thirty Thousand only)to the Dean, Government Medical Hospital, Madurai, totally Rs.1,20,000/-(Rupees One Lakh and Twenty Thousand only) for filing these writ petitions before this Court, when *suo motu* W.P.No.1592 of 2015 is pending before the Principal Bench and for delaying the progress of enquiry based on the show cause notices, seeking documents and not explaining the necessity or relevancy of the document in his representation. The costs are to be used by the Deans of the respective Medical Hospitals for treatment of poor patients. It is hoped that atleast few patients would benefit by such amount. The costs should be paid on or before 27.03.2020.

17.03.2020

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Index : Yes / No
Internet : Yes / No
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Note : (1)Copy of the order to be marked Registrar (Judicial), Madras High Court for placing the order before the Hon'ble Division Bench, which is dealing with W.P.No.1592 of 2015. ...(pto)

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(2) The learned counsel for the petitioner may address a letter to Registrar (Judicial) for reporting compliance. If no such letter is received by 31.03.2020, Registrar (Judicial) may circulate a note for consideration on 01.04.2020 so that further orders for recovery of costs may be passed.

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C.V.KARTHIKEYAN.J,

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THE MADRAS HIGH COURT OF JUDICATURE

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W.P(MD)Nos.3178, 3181, 3182, 3183, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3191 and 3193 of 2020

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https://www.aerb.gov.in/images/PDF/nfcflijuly2020.pdf

Validity of Licence for Nuclear Fuel Cycle Facilities

UCIL facilities	Validity of license
Bagjata mine	June 30, 2025
Banduhurang mine	June 30, 2021
Jaduguda mine	January 31, 2023
Bhatin mine	April 30,2023
Mohuldih mine	October 31, 2024
Narwapahar mine	March 31, 2023
Tummalapalle mine	February 28, 2023
Turamdih mine	December 31, 2023
Jaduguda mill	December 31, 2020
Turamdih mill	February 28, 2021
Tummalapalle mill	June 30, 2021

IREL facilities	Validity of license
IREL, Chavara	August 31, 2024
IREL, Manavalakurichi	August 31, 2024
MSP, IREL, OSCOM	August 31, 2024
MoPP, IREL, OSCOM	April 30, 2021
IREL, Udyogamandal	November 30, 2023

NFC facilities	Validity of license
NFC, Hyderabad	August 31, 2022
Zirconium Complex (ZC), Pazhayakayal	June 30, 2021