

**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.

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Respondent

**ADDITIONAL WRITTEN SUBMISSION FILED ON BEHALF OF THE
RESPONDENT**

I submit that I am filing this additional written submission on behalf of the respondent. As directed by this Hon'ble Tribunal on 12.01.2021, I am filing this Additional Written Submission in continuation of the oral arguments made before this Hon'ble Tribunal on 14.12.2020, 18.12.2020 and 12.01.2021. I submit that the reply affidavit filed by the respondent on 03.08.2017 in the Appeal and written submission filed on behalf of the respondent on 17.12.2020 may please be taken into account while passing orders in the Appeal.

2) It is submitted that during the hearing of this appeal, the appellant has changed the nature of the project and the proposed activities in the exclusive mineral based, more specifically beach sand minerals based Special Economic Zone (SEZ), in the light of the orders passed by the Department of Atomic Energy dated 6.01.2021 rejecting their application dated 27.08.2012 for grant of license for handling 'Monazite' i.e., cracking of Monazite for the production of Rare Earth Oxides.

3) It is submitted that the appellant in their letter dated 27.04.2016 and 25.05.2016 stated that they have been granted with 26 mining leases in Thoothukudi, Tirunelveli and Kanniyakumari districts and their group company M/s.Transworld Garent India Pvt. Ltd. have been granted with 14 mining leases in Tirunelveli district.

It was further stated that as per approved mining plans about 1.0 Million Tonnes of Ilmenite per annum and 0.066 Million Tonnes of Rutile per annum can be processed from the mined out mineral from these mining leases. Additionally, Zircon, Sillimanite and Monazite will be produced as tailings. The appellant wished to have all type of these mineral based industries under one roof near the mining leases so as to produce value added products and to export them. It was further stated that they have proposed a Special Economic Zone (SEZ)- Specific Mineral Based SEZ over an extent of 166.65.5 hectas. of patta lands at Tiruvambalapuram Village, Radhapuram Taluk, Tirunelveli District. The VVM SEZ will have its own captive port in the Gulf of Mannar adjacent to the SEZ site. It was further stated that VVM will transport the heavy minerals from the mining leases to the Special Economic Zone for further processing (Cracking of monazite) to produce garnet abrasive grit, upgraded Ilmenite, Rare Earth Oxide, Titanium Pigments, Zircon Powder etc., on stage by stage and the processed/value added products will be exported to the existing customers by ship. It was further stated that there will be no mining activity proposed within the SEZ area except the excavated earth (predominantly heavy minerals of about 2.0 Million Tonnes) which will be stacked at a suitable site within the SEZ for future utilization after obtaining all required approvals from the Government.

4) It was further stated that the following activities were proposed Sector Specific SEZ proposal:

- **Heavy mineral processing plants (cracking of monazite) for throughput quantity will be 90,000 Tonnes Per Annum (TPA) out of which 50,000 TPA of Rare earth oxide production by processing Monazite and 40,000 TPA Titanium Pigment & Zirconium production by processing Ilmenite in Non-CRZ area.**
- Stand by DG House, Workshops, Rest Houses, Admin, Buildings etc., in Non-CRZ Area.
- Common ETP of 100 KLD capacity in Non-CRZ Area
- All weather Captive Port of 4.90 MTPA cargo handling capacity with all its Administrative Offices and other infrastructures in CRZ Area.

- Desalination / RO plant of 700 KLD capacity in CRZ area
- 50 KLD Sewage Treatment Plant in CRZ Area
- **Storage of excavated earth containing heavy minerals (about 2.0 Million Tonnes) from construction in CRZ and Non-CRZ Areas for future use after obtaining required approvals from the Government.**

5) In this connection, it is submitted that the appellant has been granted with 34 mining leases for beach sand minerals in the coastal districts of Tirunelveli, Thoothukudi and Kanniyakumari. Apart from that their sister concern namely, Tvl.Transworld Garnet India Pvt. Ltd. have been granted with 16 mining lease for mining Garnet in Tirunelveli and Thoothukudi districts. Thus the appellant and their sister concern have been granted with 50 out of 64 mining leases granted to Private firm/Private companies for mining beach sand minerals in the 3 coastal districts of Tirunelveli, Thoothukudi and Kanniyakumari. Therefore, it was stated by the appellant in their letter dated 27.04.2016 and 25.05.2016 that the activities proposed Sector Specific SEZ proposal includes Storage of excavated earth containing heavy minerals (about 2.0 Million Tonnes) from construction in CRZ and Non-CRZ Areas for future use after obtaining required approvals from the Government. From the above it is clear that the source of raw materials relied by the appellant in the proposed storage activities in the SEZ for future use was the stock of beach sand minerals available with the appellant at various places in the three districts.

6) With regard to the request made by the appellant for cracking of Monazite and production of Rare Earth Oxides, it is submitted that the Hon'ble Madurai Bench of Madras High Court by Common Order dated 26.09.2019 in W.P.(MD)No.2671 and 9183 of 2013 directed the Secretary, Government of India, Department of Atomic Energy, Mumbai to consider the application of the petitioner dated 27.08.2012 and pass appropriate orders in accordance with law and the same has been filed before this Hon'ble Green Tribunal in the Convenience Typed Set of papers (Page No.498 to 507).

7) In this connection, it is submitted that in compliance to the orders passed by the Hon'ble Madurai Bench of Madras High court, the Department of Atomic Energy, Government of India in their order dated 06.01.2021 disposed the application dated 27.01.2012 filed by the appellant by rejecting the request for grant of license for handling "Monazite" i.e., cracking of Monazite for the production of Rare Earth Oxides and a copy of the orders has been filed before this Hon'ble Tribunal on 11.01.2021.

8) It is further submitted that subsequent to the rejection of their application dated 27.08.2012 for grant of license for handling Monazite i.e., cracking of Monazite, the appellant now comes forward for processing and separation of Garnet, Ilmenite, Rutile, Zircon etc. and after separation of these minerals, the tailings enriched with Monazite will be stacked separately at the designated site in Tiruvambalapuram Village, Radhapuram Taluk, Tirunelveli District. The counsel appeared for the appellant cited Flow Sheet of the Mineral Processing Plant i.e., Pre-concentration Plant and Zircon Plant Concentrate in support of their claim for processing and separation of beach sand minerals and the same has been filed before this Hon'ble Tribunal in the Convenience Typed Set of Papers (Page Nos.72 and 73).

9) As regards the action taken by the District Collector, Tirunelveli under the Tamil Nadu Panchayat Act insisting the plant owners including the appellant herein to produce running license for operation of the processing plants and separation plants owned by the appellant and other plant owners in Tirunelveli District and the status quo ordered by the Hon'ble Madurai Bench of Madras High Court, it is submitted that the Hon'ble First Bench of Madras High Court by interim order dated 27.01.2017 in W.P.(MD)No.19716 of 2016 etc. ordered as follows:-

"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 consequence 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 license exists, it is for a 85 HP machine, while at site were found erected machines of 300 HP.

5. It is agreed that in this behalf the petitioners may approach the District Collector with all the materials which is with them in respect of holding a valid license and 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”.

10) It is further submitted that the Hon’ble First Bench of Madras High Court by order dated 09.02.2017 in W.P.(MD)No.19716 of 2016 disposed the writ petition with the following directions:

“2. On hearing the learned counsel for parties, it is agreed that the petitioner will file a fresh application before the Panchayat Council, (at present, the Commissioner) and a decision will be taken in respect of the same within a period of three weeks from the date of the application. Needless to say that the consideration of the application will be as per the rules and regulations governing such applications and as per the prevalent law.”

11) It is further submitted that the fresh applications filed by the appellant and other plant owners in Tirunelveli district were returned by the Commissioner of Panchayat Union concerned with a request to resubmit their applications with all the relevant required material particulars and then only they will be in a position to process their applications in accordance with law. Aggrieved by this, the appellant filed Review Application No.21 of 2017 in W.P.(MD)No.19716 of 2016 and the same has been clubbed with the Suo-Motu Public Interest Litigation in W.P.No.1592 of 2015 and connected matters and the Review application is pending before the Designated Bench of Hon’ble Madras High Court. In view of the above stated position the appellant is not entitled for running their semi processing or wet plants and separation plants or dry plants located in Tirunelveli District.

12) It is further submitted that the appellant has suppressed many facts including the stopping of mining operations of beach sand minerals and stopping of issuance of transport permits in the district of Thoothukudi from the month of August, 2013 onwards vide G.O.Ms.No.156 Industries (MMD1) Department dated 08.08.2013 and stopping of mining operations of private lessees who have been granted with mining leases for Garnet, Ilmenite, Rutile etc., and stopping of issuance of transport permits in Tirunelveli, Kanniyakumari, Madurai and Tiruchirapalli districts vide G.O.Ms.No.173 Industries (MMD1) Department dated 17.09.2013. Apart from that, the appellant has not revealed anything on the inspections carried out by the Special Team headed by Thiru Gagandeepsingh Bedi, I.A.S., in the mining lease hold areas of the appellant and other private lessees in the districts of Tirunelveli, Thoothukudi and Kanniyakumari to verify whether there is any illegal mining by the private lessees in the three districts. Moreover, the appellant has not disclosed anything on the Suo-Motu Public Interest Litigation in W.P.No.1592 of 2015 related to beach sand minerals and other connected matters are pending before the Designated Bench of Hon'ble Madras High Court, while seeking CRZ clearance before the respondent vide their letter dated 27.04.2016, 25.05.2016 and 21.07.2016.

13) In this connection it is submitted that the reports filed by the Special Team headed by Thiru Gagandeepsingh Bedi, I.A.S., reveal that illegal mining was detected in 21 out of 34 mining leases granted to the appellant in the three districts and it was estimated that a total quantum of 39,75,695 M.T. of raw sand (RoM) was illegally mined and transported by the appellant in the three districts as detailed below:-

Illegal mining of Beach Sand by the appellant

Sl. No.	District	No.of mining leases granted	No.of lease hold areas wherein illegal mining detected	Extent of illegal mining detected (in Acres)	Quantum of raw sand illegally mined and transported (in M.T.)
1.	Tirunelveli	27	17	183.73	33,62,799

2.	Thoothu kudi	1	1	80.24	5,58,450
3.	Kanniya kumari	6	3	4.05	54,446
	Total	34	21	268.02	39,75,695

14) It is further submitted that the report filed by the Special Team Thiru Gagandeepsingh Bedi, I.A.S., pertaining to the Thoothukudi district reveals that the appellant's group of company namely, Tvl.Transworld Garnet India Pvt. Ltd. had indulged in illegal mining of raw sand in 12 out of 14 mining leases granted for mining Garnet in Tirunelveli district and extract from the report has been filed before this Hon'ble Tribunal in the Convenience Typed Set of Papers (Page No.369). The details are as follows:

Sl. No.	District	No.of mining leases granted	No.of lease hold areas wherein illegal mining detected	Extent of illegal mining detected (in Acres)	Quantum of raw sand illegally mined and transported (in M.T.)
1.	Tirunelveli	14	12	94.75	21,80,484
	Total	14	12	94.75	21,80,484

15) It is submitted that the appellant in their affidavit in W.P.(MD)No.3188 of 2020 filed before the Hon'ble Madurai Bench of Madras High Court declared that the group won the CAPEXIL 'Special Export Award' consecutively for 21 years from 1990-91 to 2009-10. It secured the "Top Exporter Award" for the year 2010-11. The group has received the award for the highest exporter of processed minerals for the fiscal year 2015-16 and 2016-17 from the Union Minister of Commerce and Industries. Apart from that the appellant won the 'Best Exporter Award' from the Indian Chamber of Commerce and Industry, Tuticorin consecutively for 12 years from 2000 onwards. A copy of the affidavit has been produced in the Convenience Typed Set of Papers filed before this Hon'ble Tribunal on 04.01.2021 (Page No.509 - Para 4 & 5).

16) In this connection, it is just necessary to highlight here that the First Report filed by Dr.V.Suresh, Amicus Curiae in the Suo-Motu PIL in W.P.No.1592 of 2015 before the Designated Bench of Madras High Court reveals that the appellant and other private

lessees had indulged in large scale unlawful / illegal mining and transportation of Beach Sand Minerals in the 3 districts. More specifically, the appellant who had been granted with 34 mining leases in Tirunelveli, Kanniyakumari & Thoothukudi districts played a major role in the illegal transport of beach sand minerals during the period from 2000-01 to 2013-14 as detailed below:

Illegal transport of Raw Sand and Beach Sand Minerals by the appellant

Sl. No.	Category	Quantity transported (in M.T.)	Quantity illegally transported (in M.T.)	Illegal transport (in %)
1.	Raw sand	97,71,100	45,77,330	46.85%
2.	Garnet	21,17,200	10,87,829	51.38%
3.	Ilmenite	29,20,027	21,23,202	72.71%
4.	Rutile	30,050	20,502	68.23%
5.	Zircon	46,700	46,556	99.69%
6.	Sillimanite	45,200	45,200	100%
7.	Leucoxene	4,200	4,200	100%

17) It is further submitted that the Special Team headed by Thiru Satyabrata Sahoo, I.A.S., constituted by the Government for assessment of stocks in the three districts vide G.O.Ms.No.41 Industries Department, dated 07.04.2017 submitted a comprehensive report before the Hon'ble Designated Bench of Madras High Court on 18.04.2018 in the Suo-Motu PIL in W.P.No.1592 of 2015. The category wise stocks of beach sand minerals available with the appellant in the three districts as assessed by the Sahoo Committee are tabulated below:

Category-wise stocks in possession of the appellant

Sl No.	Category	Quantity (in M.T)
1.	Raw sand	30,36,290.685
2.	Semi Processed sand	7,23,434.910
3.	Garnet	69,609.250
4.	Ilmenite	44,253.098
5.	Zircon	2,994.7
6.	Rutile	809.3
	Total	38,77,391.943 (or) 38.77 Lakh M.T

18) It is further submitted that the Second Report filed by the Learned Amicus Curiae before the Hon'ble Madras High Court on 09.07.2018 in the Suo-Motu PIL 1592 of 2015 reveals that the total quantum of stock found to belong to the appellant as reported in the Sahoo Committee report of 38.77 lakh M.T. is totally illegal.

19) It is further submitted that, the Hon'ble Designated Bench of Madras High Court by Order dated 21.01.2019 in the Suo-Motu PIL in W.P.No.1592 of 2015, under para 21 ordered as follows:-

21. Thus, this Court makes 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.

20) It is further submitted that the C.M.P.No.6433 of 2017 and 15072 of 2017 filed by the appellant in W.A.No.1169 of 2015 are related to the permission requested by the appellant for processing of the existing stock available in the factories and warehouses of the appellant. The Government have strongly opposed the prayer made by the appellant in the above miscellaneous petitions, as the entire stock of beach sand minerals available with the appellant and other private lessees are arrived as illegally mined, transported and stored one contravening the provisions of Section 4 (1) and 4 (1A) of the MM(DR) Act, 1957 as per the findings of the reports of the Bedi Committee, District Level Committee and as per the reports of the Learned Amicus Curiae. The above said Miscellaneous Petitions are pending before the Hon'ble Designated Bench of Madras High Court in W.A.No.1169 of 2015 and no interim orders have been passed in the said miscellaneous petitions.

21) In view of the above stated facts and circumstances and the Hon'ble Designated Bench of Madras High Court has already clarified that the Suo-Motu PIL in W.P.No.1592 of 2015 covers all beach sand minerals pertains to alleged unauthorized / illegal extraction of minerals, transportation and other associated alleged illegal or unlawful activities, the proposed activities as stated in their letter dated 27.04.2016 and 25.05.2016 could not be carried out by the appellant till final orders are passed by the Designated

Bench of Hon'ble Madras High Court in the Suo-Motu PIL in W.P.No.1592 of 2015 and other connected matters pending before the Hon'ble Court.

22) It is further submitted that the Department of Atomic Energy in their Reply affidavit filed on 05.01.2017 in the Suo-Motu PIL in W.P.No.1592 of 2015 reported that the approximate quantum of Monazite available in the Monazite enriched tailings as **5,876.6 Metric Tonnes** from the total quantum of 98,88,100 Metric Tonnes of raw sand consumed by the appellant based on the explorations and investigations carried by the Atomic Minerals Directorate during the period from 1977-78 to 1997-98. Whereas, the total quantum of monazite available in the monazite enriched tailings kept at the designated site of Tiruvambalapuram Village in Radhapuram Taluk, Tirunelveli district as computed by the Department of Atomic Energy based on the data submitted by the appellant for the period from 2007 to 2016 was **23,461 Metric Tonnes**. Therefore, it was reported that **there is a mismatch as seen from the above regarding computed monazite resource**. The details are enclosed in the Convenience Typed Set of Papers filed by the respondent on 04.01.2021 (Page No.355).

23) In this connection, it is submitted that Dr.V.Suresh, learned Amicus Curiae in his Second Report filed in the Suo Motu PIL W.P.No.1592 of 2015 reported that a total quantum of over 4.6 Crore Metric Tonnes of Raw Sand is required for having 23,608 Metric Tonnes of Monazite in the tailings stored by the appellant at the designated site in Tiruvambalapuram Village, Radhapuram Taluk, Tirunelveli District. The extract is enclosed in the Convenience Typed Set of Papers filed on 04.01.2021(Page No.460).

24) It is further submitted that the Ministry of Mines, Government of India in their Notification S.O.2356(E) dated 11.07.2016 have made amendment to the First Schedule of the MMDR Act, 1957. By this amendment, 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 have been classified as Atomic minerals and inserted as

12th entry under “Part B - Atomic minerals” of the First Schedule of the MMDR Act, 1957.

25) It is further submitted that in exercise of the powers conferred by Section 11B of the Mines and Minerals (Development & Regulation) Act, 1957, the Central Government vide their Notification GSR.No.677 (E) dated 11.07.2016 framed the Atomic Mineral Concession Rules, 2016 (AMCR, 2016) which came into force with effect from 11.07.2016. 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. The threshold value for Uraniferrousallanite, Monazite and other Thorium minerals as specified in the Schedule – A was 0.75% Monazite in Total Heavy Minerals in beach sand minerals and other placer deposits. The threshold value for Zirconium bearing minerals and ores including Zircon as prescribed in the Schedule – A of AMCR, 2016 was 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. In other cases Zircon containing less than 2000 ppm of Hafnium.

26) The Hon’ble First Bench of Madras High Court by order dated 27.03.2017 in the Suo-Motu PIL in W.P.No.1592 of 2015 under para 4 and 5 ordered as follows: (Extract from Page No.470 to 472 of the Convenience Typed Set of Papers)

4. It is pointed out that throughout coastal area Tamil Nadu, beach sand minerals by low tide and high tide sea waves, will produce different minerals, viz., Garnet, Ilmenite, Rutile, Sillimanite and Monazite and other high valued minerals. Of which, Monazite, a prescribed substance – mineral, coming under the purview of Atomic Minerals Department. Being high value mineral and natural wealth, it should be preserved and should not be leased out without proper approval of Atomic Minerals Directorate and the Indian Bureau of Mines. 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 Monazite mining and observed that it is for the Central Government to take a policy facilitating the utilization of monazite mine, however, so far, no such policy had been brought.** The Learned Additional Solicit General would submit that the Central Government alone has the right to grant permission for Monazite mining and as on date, no such permission was granted. Having regard to the high value of the mineral Monazite, 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 the above said four districts, it is very difficult to differentiate and isolate the Monazite mineral from among other minerals, such as Garnet, Ilmenite, 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, 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 Monazite 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 Monazite;**
- iii)

27) It is further submitted that the Ministry of Mines, Government of India in their Notification GSR 134 (E) dated 20.02.2019 amended the Atomic Mineral Concession Rules, 2016 by substituting Schedule - A in place of the Schedule - A existed. By this amendment, all cases of Titanium - bearing minerals (Ilmenite, Rutile and Leucoxene) occurring in beach sand minerals and other placer deposits in association with Monazite are notified as above threshold (i.e. threshold is 0.00% Monazite in Total Heavy Minerals) irrespective of Monazite Grade. Apart from that 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. threshold is 0.00% Monazite in Total Heavy Minerals) irrespective of Monazite Grade. Besides, all cases of beach sand minerals and other placer deposits in association with Monazite are notified as above threshold (i.e. threshold is 0.00% Monazite in Total Heavy Minerals) irrespective of Monazite Grade. A copy of notification dated 20.02.2019 of the Ministry of Mines, Government of India has been enclosed in the Convenience Typed Set of Papers filed on 04.01.2021 (Page No.480 and 481).

28) It is further submitted that the Ministry of Mines, Government of India in their Order in F.No.1/1/2019-M.VI, dated 01.03.2019 under para 6, 7, 8 & 9 ordered as follows:

6. Zirconium, Hafnium and Thorium are very important strategic elements for the ongoing Nuclear Power Installations and 3rd stage Nuclear Power Programme in the country. Monazite being the primary 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 affecting the National Security.

7. Ilmenite, Rutile and Leucoxene are Titaniferous minerals. Titanium sponge is known for its high strength and low weight, making it ideal material for aircraft manufacturing including fighter aircraft. The material is also used in nuclear plants, engine parts, ocean platforms, reactors and heat exchangers.

8. Whereas in the 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 expedient to regulate the mines & mineral development and conservation of Beach Sand Mineral resources.

9. Whereas in view of the amendment made to Schedule – A of AMCR, 2016 under GSR 134 (E) dated 20th February, 2019, all the existing mineral concessions of beach sand minerals are above threshold. Rule 5(1) of AMCR, 2016, prescribes that where the grade of atomic minerals is equal to or above the threshold value, the mining lease can invariably be granted a Government company or corporation owned by the Government only.

29) It is further submitted that the Central Government after consultation with the State Governments decided that it is expedient in the interest of regulation of mines and minerals development and conservation of mineral resources, to terminate all the existing mineral concessions of beach sand minerals held by private persons/company and therefore requested the State Government to take necessary action for premature termination of mining leases in accordance with the provisions of Section 4A(1) and 4A(3) of the MMDR Act, 1957. Accordingly, show cause notices were issued by the Principal Secretary to Government, Industries Department on 28.06.2019 directing the appellant and other private lessees to submit their explanation as to why the mining lease granted to them for mining beach sand minerals should not be prematurely terminated. The matter is under careful examination of the State Government. A copy of Order dated 01.03.2019 passed by the Ministry of Mines, Government of India is enclosed in the Convenience Typed Set of Papers filed before this Hon'ble Tribunal on 04.01.2021 (Page Nos.482 to 484). A copy of show cause notice issued to the appellant is enclosed in the Convenience Typed Set of Papers (Page Nos.486 to 490).

30) It is further submitted that the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce and Industry, Government of India issued Notification No.26/2015-2020, New Delhi, dated 21.08.2018 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), Monazite, Sillimanite and Garnet have been brought under State Trading Enterprise and shall be canalised through Indian Rare Earths Limited (IREL) a Government of India undertaking. As per the Standard Operating procedures towards export policy of beach sand minerals, all the exports of beach sand minerals (BSM) to be canalised through M/s.Indian Rare Earths Limited (IREL) with effect from 21.08.2018. A copy of the same is enclosed in the Convenience Typed Set of Papers (Page Nos.435 to 442).

31) It is further submitted that the Hon'ble Supreme Court in **(2000) 7 SCC 529, Aligarh Muslim University and Others Vs., Mansoor Ali Khan** had an occasion to consider the effect of **"useless formality"** - a theory, which is an exemption to the principles of natural justice.

Under the circumstances stated above, it is therefore respectfully prayed that this Hon'ble Tribunal may be pleased to record the above facts and to dismiss the Appeal and pass such further orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

Dated : 18.01.2021
Chennai.


Standing Counsel
National Green Tribunal (SZ),
Chennai.

18-1-2021