

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH - COURT NO. 2

**CUSTOMS Appeal No. 10135 of 2024-DB**

[Arising out of Order-in-Appeal No. AHD-CUSTOM-000-APP-297-23-24 dated 23.11.2023  
passed by Commissioner of Customs (Appeals), Ahmedabad]

**M/s. Payal Synthetics Private Limited**

101, Ashwamegh Apartment, Ambica Niketan Road,  
Parle Point, Surat – 390 007 (Gujarat)

**.... Appellant**

*VERSUS*

**Commissioner of Customs, Ahmedabad**

4th Floor, HUDCO Bhavan, Ishwar Bhuvan Road  
Navarangpura,  
Ahmedabad -396191

**.... Respondent**

**APPEARANCE :**

Shri S. Suryanarayanan, advocate for the Appellant  
Shri Aakash Singh, Superintendent (AR) for the Respondent

**CORAM:**

**HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)**  
**HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)**

DATE OF HEARING : 04.09.2025

DATE OF DECISION: 22.12.2025

**FINAL ORDER NO. 11438/2025**

**MR. SATENDRA VIKRAM SINGH :**

M/s. Payal Synthetics Pvt. Limited, Surat filed two shipping bills bearing No.1413346 and 1413278 both dated 18.01.2019 for export of 140MT & 138MT of "Natural Abrasive" classifying the same under Customs Tariff Heading 2513 2090. The said consignments were covered under invoice numbers PSPL76/2019 and PSPL77/2019 both dated 17.01.2019. The department observed that the DGFT vide Notification No. 26/2015-20 dated 21.08.2018 has amended export policy of 'Beach Sand Minerals' (BSM) in Chapter 26 of Schedule 2 of ITC (HS) Classification of Export and Import Items. Para 2, 3 and 4 of the above notification are as under:-

".....2. The Existing entries in the 'Note' of Chapter 26 of Schedule 2 of ITC (HS) Classification of Export and Import Items 2018 are substituted as under:

**"NOTE:**

1. Export of Rare Earth compounds classified as Beach Sand Minerals (BSM), namely [Ilmenite, Rutile, Leucoxene (Titanium bearing mineral), Zircon, Garnet, Sillimanite and Monazite (Uranium and Thorium)], shall be regulated in terms of Sl. No. 98A of Chapter 26 Schedule 2 of ITC (HS) Classification.
2. Other minerals under code 2617 are freely exportable, except those which have been notified as prescribed substances and controlled under Atomic Energy Act, 1962".:
3. A new entry at Sl. No. 98A is inserted in Chapter 26 of Schedule 2 of ITC (HS) Classification of Export & Import Items 2018 as follows :-

S. No.	Tariff item HS Code	Unit	Item description	Export Policy	Policy Condition
98A	2508 5031 2508 5032 2508 5039 2612 1000 2612 2000 2614 0010 2614 0020 2614 0031 2614 0039 2614 0090 2615 1000 2513 2030	Kg	Beach Sand Minerals [Ilmenite, Rutile, Leucoxene (Titanium bearing mineral), Zircon, Garnet, Sillimanite and Monazite (Uranium and Thorium)]	STE (State Trading Enterprise)	Export through Indian Rare Earths Limited (IREL)

4. Effect of this Notification:

Export of Beach Sand Minerals have been brought under STE and shall be canalized through Indian Rare Earths Limited (IREL). Beach sand minerals, permitted anywhere in the export policy, will now be regulated in terms of policy under at Sl. No. 98A of Chapter 26 of Schedule 2 Export Policy".....

1.1 On request of the exporter on the ground of missing the connecting vessel and heavy ground rent, Customs allowed it's export provisionally by drawing samples from the consignments which were sent to CRCL, Vadodara for testing vide test memo No. WH1-176623/18-19 and WH1-176622/18-19 both dated 25.01.2019. After execution of requisite bond by the exporter, goods were given Let Export Order (LEO) on 25.01.2019 provisionally subject to receipt of test report. The test reports in this case were received on 04.04.2019 which reported that the *sample is in the form of Pinkish red*

*coarse powder and it has the characteristics of natural almandine Pyrope Garnet.* The composition of the sample is as under:-

<u>Test Memo-WH1-176623</u>		<u>Test Memo - WH1-176622</u>	
Al <sub>2</sub> O <sub>3</sub>	12.436	Al <sub>2</sub> O <sub>3</sub>	11.763
SiO <sub>2</sub>	10.128	SiO <sub>2</sub>	12.332
CaO	2.23	CaO	1.805
MnO <sub>2</sub>	3.642	MnO <sub>2</sub>	2.547
Y <sub>2</sub> O <sub>3</sub>	0.194	Y <sub>2</sub> O <sub>3</sub>	0.187
ZrO <sub>2</sub>	0.017	ZrO <sub>2</sub>	0.014
Fe <sub>2</sub> O <sub>3</sub>	Balance	Fe <sub>2</sub> O <sub>3</sub>	Balance

The Customs department therefore, issued a Show Cause Notice to the appellant on 07.01.2021 alleging that the exporter has filed false and erroneous declaration in respect of export items which were prohibited as per DGFT Notification No. 26/2015-20 dated 21.08.2018 and thus, export of prohibited goods becomes an act tantamount to smuggling as defined under Section 2(39) of the Customs Act, 1962. The notice proposed:-

- (a) Rejection of classification of exported goods declared under CTH 25132090 and reclassify them under Chapter Heading 25132030;
- (b) Confiscation of the said goods valued Rs. 26,69,920/- and Rs. 25,34,048/- respectively under Section 113(d) and 113(i) of the Customs Act, 1962;
- (c) Penalty under Section 114(i) and 114AA of the Customs Act, 1962.

1.2 The Show Cause Notice was decided vide order No. 41/MK/JC/SRT/2021-22 dated 06.01.2022 wherein the Adjudicating Authority held that the goods are 'Natural Garnet' and confirmed classification of the subject goods under CTH 2513 2030, confiscated the goods which were provisionally exported vide two shipping bills dated 18.01.2019 and imposed redemption fine of Rs. 2,00,000/- in lieu of

confiscation besides imposition of penalty of Rs. 50,000/- on the appellant each under Section 114(i) and 114AA of the Customs Act, 1962.

1.3 Aggrieved with above order, the appellant filed appeal before the Commissioner (Appeals) who vide impugned order, upheld the order of the Additional Commissioner and rejected the appeal filed by the appellant. Hence, this appeal before this Tribunal.

2. The appellant mentioned that their appeal before Commissioner (Appeals) as well as reply dated 31.12.2021 to the Show Cause Notice may be treated as part and parcel of this appeal. In addition, they took the following grounds:-

(a) Findings in para 5 of the impugned Order-in-Appeal are incorrect because test reports can be challenged only during adjudication. The appellant has made no confession during investigation as no statement was recorded before issue of Show Cause Notice. The findings at para 5.4 of the Order-in-Appeal are false as the Adjudicating Authority has in para 21 of his order has accepted their contention that the raw materials were sourced from Bhilwara (Rajasthan) for manufacture of natural abrasives.

(b) The fact that Beach Sand Minerals is a generic term and not specifically those mined on beach as recorded by the Adjudicating Authority in para 21 of the order, has been ignored by the appellate Commissioner. They have placed factual contentions before the Adjudicating Authority which he had accepted.

(c) Beach Sand Minerals mentioned in the DGFT notification can apply only to minerals produced from beach Sand and not to finished goods produced by the appellant from rocks and lumps sourced from inland areas like Bhilwara, Rajasthan.

(d) It is settled law that DGFT is the final authority for interpretation of ITC and foreign policy. They pray that relevant provisions of the Foreign Trade Policy and judgments in this regard may be followed.

In view of the above submissions, they requested for setting aside the impugned order and to hold that natural abrasives manufactured from rocks sourced from Bhilwara Rajasthan and exported by the appellant do not fall under the category of Garnet produced from beach sand minerals (BSM). The matter was requested for early hearing which was allowed.

2.1 The appellant made submission dated 21.07.2025 wherein they mentioned the following points:-

(i) Natural abrasives exported by the appellant are not produced from beach sand. They procured the raw material in the form of small rocks, stones and lumps from Kiran Minerals, Bhilwara and Raghav Mineral, Bhilwara and therefore, these goods fall outside the purview of DGFT notification No. 26/2015-20 dated 21.08.2018 directing canalization of export of Garnets.

(ii) Chemical examiner's report did not answer the question whether the item exported was produced from beach sand which only mentioned that the sample is in the form of Pinkish Red Coarse powder which supports their case. They have correctly declared the export goods in the shipping bills and therefore, change of classification, their confiscation and imposition of penalty and redemption fine is not justified.

(iii) Notification No. SO 2356(E) dated 11.07.2016 issued by the Administrative Ministry of the Government of India under the Mines and Minerals (Development and Regulation) Act, 1957 specifically mentions in entry No. 12 therein 'Beach Sand Minerals that is,

economic heavy minerals found in the Teri or Beach Sands which is Leucoxene, Garnet, Monocyte, Zircon and Sillimanite. Therefore, rocks and lumps procured by them from Rajasthan which is not a coastal state, for making natural abrasives, cannot fall under the category of Beach Sand Minerals falling within the scope of DGFT notification.

(iv) Above notification clearly shows that the item provided for canalized export through DGFT notification is based on description of the items in statutory notification. It has been held by Hon'ble Madras High Court in the case of **State of Tamilnadu Vs. Kasiraja Nadar – 1980 SCC Online Mad 392** that word “namely” occurring in a notification should be given restricted meaning.

(v) It has been held in the following cases that DGFT is the final authority for interpretation of ITC and Foreign Trade policy.

PTC Industries Limited vs. UOI – 2009 SCC Online All 2138

Lokash Chemical Works Vs. CC – 1981 (8) ELT 235 (Bom.) and

Richardson Hindustan Limited vs. UOI – 1988 (37) ELT 496 (Bom.)

2.2 During hearing, learned Advocate submitted the following :-

(i) As per encyclopedia Brittanica, pyrope is magnesium aluminum. Further, almandine is part of rock forming garnet and is of metamorphic rocks, especially mica schists, amphibolites, and granulites; granites, aplites, and granitic pegmatites. Pyrope is of ultramafic rocks such as pyroxenites and peridotites and serpentinites derived from them; eclogites.

(ii) The hardness, lack of cleavage and tendency to break into irregular grains have led to the recovery, crushing, and size-sorting of

garnet for use in abrasives such as sandpaper. In addition, garnets are used as gemstones.

(iii) The test report in their case clearly establishes that declaration made by the appellant in the shipping bills as "Natural Abrasives" is true and bonafide. The goods exported by them are in no way similar or identical with the goods exported by M/s. Tirupati Enterprises and therefore, the decision of the Tribunal vide Final Order No. 10561/2025 dated 15.07.2025 in the case of Tirupati Enterprises as cited by the Revenue is not applicable.

(iv) They have been exporting 'Abrasives' declaring it's classification under CTH 25132090 and there was no attempt by them to change it's classification after DGFT notification as was in the case of Tirupati Enterprises.

(v) As an alternative plea, they never applied for registration with canalising agency IREL (Indian Rare Earth Limited) and this fact distinguishes their case from the decision of this Tribunal in case of Tirupati Enterprises. In Tirupati judgement, Atomic Energy department issued OM in 2020 and PIB of Govt of India established rare earth minerals only in 2022. This shows that there was no ban on excavation and export of abrasives of Rajasthan origin in 2019. Therefore, confiscation of goods, imposition of penalty and redemption fine on the appellant for a bonafide export of 2019 based on materials of 2020 and 2022 is not proper and justified. They also enclosed literature on Pyrope alongwith their physical properties to support their case and stated that the present matter is distinguishable with the facts in the case of M/s. Tirupati Enterprises.

2.3 The appellant has also made additional submissions on 29.09.2025 wherein they enclosed copies of 15 shipping bill filed in 2018 for export of natural abrasives to show that they had always classified the said goods under CTH 2513 2090 for export and have never changed the classification.

3. Learned AR mentioned that the appellant has raised two grounds- One that the DGFT notification has canalized the natural garnet found in Beach Sand Mineral, while their product is made after crushing rocks found in Rajasthan. Construction of the notification has also been relied on to submit that only the BSM has been restricted. In second ground, they have relied upon a reply to parliamentary question to prove that only BSM is canalized

3.1 On first ground - Garnet itself is not a radioactive material. It is simply a silicate having chemical composition  $X_3Y_4(SiO_4)_3$ . X site is usually occupied by divalent cations, and Y site is generally occupied by trivalent cations. Rare Earth Elements can be incorporated in the crystal structure of garnet, and these REEs are the reason why garnet is canalized and its export is regulated. REEs have critical importance in Atomic Energy, Defence, and Space Sector, and therefore, the export of the garnet is regulated since they can contain REES. Mining of garnet can also lead to a security hazard since when the garnet is mined, the density of Radioactive material increases in that area, which may lead to unwanted exposure to radiation in that area. In the above backdrop, the DGFT issued a notification to regulate the export of garnet. Export of any garnet, irrespective of its origin i.e. from beach or from inland places, has been regulated by this notification. Scientific studies and construction of the notification lead to only one conclusion, which is that the export of garnet has been regulated irrespective of its origin.

The above view has been upheld by CESTAT, Ahmedabad in Tirupati Enterprises Vs Commissioner of Customs (P), Jamnagar Final Order No 10561/2025 dated 15.07.2025. In the present case, the test report is conclusive since the goods have been found to be "Garnet". The test report has not been challenged. Secondly, the appellant submitted before the department that they might miss the vessel and hence gave an undertaking that the goods are not "100% natural garnet" for the release of the goods for export under bond. It shows that they had the knowledge about restrictions in place.

3.2 Regarding second ground, the parliamentary question and the answer thereof are about BSM only. Nowhere does it mention that the garnet found only at beaches is regulated. On the contrary, facts of the case law relied upon by the revenue include an OM from the Department of Atomic Energy (DAE), which is the authority on such matters. It has been categorically stated in that OM that the presence of monazite cannot be ruled out in garnet found at inland places, and hence it was advised to the DGFT that export of garnet from inland places should be treated as regulated.

3.3 He pleads that the goods exported by the appellant were prohibited goods in terms of notification No. 26/2015-20 dated 21.08.2018 issued by the DGFT. He also justified confiscation of the said goods and imposition of redemption fine in lieu of confiscation on the basis of violation of Import Export Policy and penalty on the appellant in the light of the facts of the case and in terms of issue decided by this Tribunal. He therefore, prays for dismissing appeal of the appellant.

4. We have considered the rival submissions. We find that the appellant has put lot of emphasis on the fact that Office Memorandum was issued by Department of Atomic Energy, in 2020 which is much after their exports. We

find that reliance on fact that circular was issued later may not make much of difference to the merits of the case, as the same was to emphasize the nature of the goods which were covered under DGFT Notification No. 26/2015-20 dated 21.08.2018. We find that issue of export of garnet was considered in details by this Tribunal in the case of Tirupati Enterprises which vide Final Order No. 10561/2025 dated 15.07.2025 decided that the items exported are rightly classifiable under Chapter Heading 25132030 which as per notification issued by the DGFT is under the prohibited category. We proceed to examine whether the case is otherwise sustainable on the basis of whole gamut of evidence which has been produced by the department. While doing so, we have duly considered all the materials placed, objections raised and grounds taken by the appellants, in making their submissions, including the case laws which are on record.

4.1 We find that Notification No. 26/2015-20 dated 21.08.2018 which had inserted at Sr. No. 98A in Chapter 26 of Schedule 2 of ITC (HS) Classification of Export and Import Items, 2018, the item 'Garnet' classifiable under CTH 2513 2030 as a canalised item which could only be exported by M/s. India Rare Earth Limited (IREL) and no other entity. The notification itself dealt with sensitive materials seen from the perspective of national security and placed restrictions of canalising the same to designated agencies and not otherwise. The materials included in the notification are both special mineral materials as well sensitive materials. From the point of view of national security, the restrictions of this nature in any law or notification are therefore required to be strictly interpreted.

4.2 We also find that the test reports in respect of samples drawn from the export goods indicating that it is in the form of Pinkish red coarse powder and has characteristics of Natural Almandine Pyrope Garnet. There was no

cross-examination sought of the experts, who gave such analysis to indicate that there was anything wrong in the report. In the instant case appellant has exported goods without involving canalising agency i.e. IREL even when they had knowledge of the procedures as well as restrictions involved. Therefore, this conduct cannot be justified.

4.3 The appellant has claimed that DGFT has restricted only the garnet found along beaches and not in inland places, and since their product is manufactured after crushing rocks in Rajasthan, it is not restricted as per the DGFT notification. There is no scientific study to claim that Rare Earth Elements (REEs) are found only in sands found near coasts. On the contrary, there are scientific studies to show that a significant quantity of REEs are found in inland places. This is due to geological reasons i.e. shifting of plates. The Garnet in question being of Rajasthan origin does not take it out of scope of DGFT notification whose intention is to restrict export of Garnet irrespective of its origin. This notification was issued to regulate and discourage exploitation of certain rare earth compounds since it may increase density of Monazite in the remaining area called tailings. Monazite is a radioactive mineral containing radioactive elements Uranium and Thorium. DGFT issued this notification on the basis of recommendation of the Atomic Energy Regulatory Board (AERB). It is a settled principle of law that in case of any ambiguity, the intention of the law-making body should prevail over any other explanation while interpreting any statute/law.

4.4 Intention of the DGFT notification becomes more clear for the following reasons, firstly, this notification has not canalized only "Beach Sand Mineral", which term has been used in generic sense while a specific term "Garnet" has been used along with its CTH in the notification. Therefore, the term Beach Sand Mineral in our view, does not mean minerals mined on

beach only. Secondly, this notification has not connected the Garnet with any specific geography as purpose is to discourage exploitation of Rare Earth Compounds since it may increase the density of Monazite in the remaining area called tailings. Monazite is a radioactive mineral containing radioactive elements Uranium and Thorium. Since its density increases after mining of Garnet (and other rare earth compounds mentioned in the Notification), it becomes a security hazard. Its depletion is also discouraged since REEs have become very precious due to modern technological requirements. We reproduce relevant portion of a recent research paper published in Journal of Geochemical Exploration, Vol. 274 in Feb, 2025.

*Heavy mineral sands (HMS) represent an alternative major resource of Rare Earth Elements (REE) deposits with over 90% of these formed within the past 66 Myr. These deposits exhibit a diverse range of mineral compositions (i.e. ilmenite, rutile, zircon monazite, xenotime, and garnet) and can be formed from a wide range of geological and surficial processes. However, few studies examined the in-depth geological characteristics and exploration strategies to specifically target HMS mineralisation, and particularly none have specifically focussed on the REE component of these deposits. Here we show a total of 1173 REE-HMS deposits that exhibit diverse heavy mineral compositions. The largest REE-HMS deposits show an average heavy mineral grade of 7% (SD = 12) and an average resource size of 1337 Mt. (SD 1932). REE-HMS deposits commonly concentrate along Quaternary coastlines that cluster within a 100 km radius and predominate in tropical humid areas within 25 degrees north and south of the Equator. Yet, 40% of large REE-HMS deposits formed during the Neogene, Paleogene, and Cretaceous are situated inland from modern coastlines.*

Para 4.4.1 of the paper is reproduced below:

*The distribution of ages among REE-HMS deposits reveals a relatively narrow timeframe, primarily forming within the last 66 Myr, during the Cenozoic (Fig. 6b). The Holocene constitutes a significant portion of these recent deposits, with some still actively forming today (Table 1). The prevalence of deposits being exposed and reworked, reinforces this notion (Fig. 6c). However, it is important to note that older deposits represent ~40 % of the largest REE-HMS deposits (Table 1). These deposits are commonly located inland from modern coastlines and formed during the Neogene, Paleogene and Cretaceous. This indicates the importance of intraplate tectonics in facilitating the high preservation rate, either within inland seas or amid rapid coastal regression.*

Para 6 concludes the paper. Relevant portion of the para is reproduced below:-

There are 1173 REE-HMS deposits worldwide with various HM assemblages, including ilmenite, rutile, zircon, monazite, xenotime, and garnet. The largest deposits have an average HM grade of 7% (SD = 12) and an average resource of 1337 Mt. (SD-1932) of

HM (Table 1). REEHMS deposits vary significantly in HM phase concentration. Ilmenite content ranges from 0.53% to 82.6%, rutile from 0.002 % to 9.7%, zircon from 0.1% to 9.6 %, and monazite plus xenotime from 0.03% to 3.5%. Over 90% of REE-HMS deposits are <66million years old. Only 8 % are older, with 6% from the Mesozoic and 2% from the Paleozoic era. **40% of large REE-HMS deposits formed during the Neogene, Paleogene, and Cretaceous are inland from modern coastlines.** REE-HMS deposits come from rocks found in high-grade metamorphic belts, orogenic belts, and cratons. Tropical humid areas with well-developed river systems are crucial for facilitating transport mechanisms. Most deposits are within 25 degrees north and south of the Equator and have a positive correlation with river systems and coastal areas. REE-HMS deposits globally show patterns: (i) concentration along modern coastlines; (ii) clustering within 100 km radius; (iii) areas devoid of known. HMS deposits between clusters; (iv) inland presence of REE-HMS deposits, often hundreds of kilometers from coastlines; (v) prevalence of alluvial deposits inland, eolian near coasts; (vi) largest deposits localised on modern shorelines, except where they align with paleo shorelines. Approximately, 40% of the largest REE-HMS are currently exposed.

4.5 Applicant claimed that they had been exporting the material by the name "Natural Abrasive" under CTH 25132030 and in support have produced copy of 15 Shipping Bills filed in 2018. We find that in a reference made by DGFT in another case to AERB for their comments since it was their domain to give expert comments, AERB in consultation with the Atomic Minerals Directorate for Exportation & Research (AMD) and IREL (India), vide the OM No. PSU-3010/44/2019- PSU/2798 dated 25.02.2020 issued by Under Secretary (PSU), Govt. of India, Department of Atomic Energy clearly informed that the material i.e. Rock Garnet proposed to be exported falls under CTH 25132030 which is covered under canalization through the IREL (India). The OM also stated clearly that when there is a specific entry for Garnet i.e. 25132030, classifying it under 25132090 is only to circumvent the provision of canalization.

4.6 Press Information Bureau released after Union Minister's reply in Lok Sabha in 2022 also makes it clear that Rajasthan is also a source of Rare Earth Elements (in the form of oxides). The Minister of State, Earth Sciences informed the following data to the Parliament. As on September, 2022, Atomic Minerals Directorate for Exploration and Research (AMD) has established:-

- 13.07 million tonnes in-situ Monazite (containing -55-60% of total Rare Earth Elements oxide) resource occurring in the coastal beach placer sands in parts of Kerala, Tamil Nadu, Odisha, Andhra Pradesh, Maharashtra and Gujarat and in the inland placers in parts of Jharkhand, West Bengal and Tamil Nadu.
- 7,37,283 MT Rare Earth Elements Oxide (REO) in Ambadungar area, Chhota Udepur district, Gujarat
- 36,945 MT REO in Bhatikhera area, Barmer district, Rajasthan
- 2,000 tonne of heavy mineral concentrate containing -2% xenotime (a phosphate mineral of yttrium and rare earth elements) in the riverine placer deposits of Chhattisgarh and Jharkhand. Presently, AMD is carrying out collection of xenotime bearing heavy mineral concentrate in the unit established in Chhattisgarh and has a stockpile of 97.688 MT xenotime bearing heavy mineral concentrate.

Therefore, places like Chota Udepur district in Gujarat and States such as Rajasthan, Chhattisgarh and Jharkhand which do not have coastline show availability of rare earth elements.

4.7 Garnet is a mineral found on both i.e. beach and in inland places. It works as a natural abrasive. The claim of the appellant that since it is manufactured in Rajasthan, it cannot be garnet has no basis after the CRCL report which is not under dispute. On the contrary, Indian Minerals Year Book, 2022 published by Ministry of Mines makes it very clear that Garnet is also found in Rajasthan. The relevant para of Chapter 13 of the Year Book is quoted as under:-

#### RESERVES / RESOURCES

In India, garnet deposits suitable for use in Abrasive Industry occur in Andhra Pradesh, Chhattisgarh, Jharkhand, Kerala, Odisha, Rajasthan, Tamil Nadu and Telangana. Gem variety of garnet occurs in Ajmer, Bhilwara, Jhunjhunu, Sikar and Tonk districts,

Rajasthan; Nellore and Srikakulam districts, Andhra Pradesh; Khammam district, Telangana and Coimbatore, Ramanathapuram, Tirunelveli, Kanyakumari, Tiruchirappalli and Tiruvarur districts, Tamil Nadu. Garnet is found to occur in beach sands along with ilmenite, rutile, sillimanite, etc. in the States of Kerala, Odisha and Tamil Nadu.

4.8 In view of above geographical location does not have direct correlation to the Rare Earth Element. Their density may vary from coast to inland places. Therefore, DGFT did not have any reference to the geographical location of Garnet. However, one thing is certain that a significant portion of the REEs are found in inland places also, and the intent of AERB regulation was to regulate mining due to their presence. This becomes very much clear after the OM issued by the parent authority i.e. AERB and scientific study quoted in (b) above. There is no scientific study to claim otherwise.

4.9 In view of the above submissions, we agree with the department that scope of DGFT notification is to restrict export of Garnet without bothering about its origin whether of beach origin or otherwise, specially we find that for "Garnet" there is no such rider. The intention of the DGFT notification is to restrict export of Garnet irrespective of its origin. We also find that Customs tariff also does not distinguish between "Garnet found on beach" and "Garnet found in inland places as both are classified under CTH 25132030 as Natural Garnet. Therefore, when the Garnet has been given a specific subheading i.e. 25132030, classifying it as Natural abrasive in another sub-heading is incorrect and amounts to mis-declaration. Therefore, after considering various submissions, we uphold confiscation of exported goods under Section 113(d) & 113(i) of the Customs Act, 1962. We also uphold redemption fine of Rs. 2 Lakhs imposed on such canalized item in lieu of confiscation and penalty of Rs. 50,000/- each under Section

114(i) and 114AA imposed on the appellant. Appeal is therefore, liable to be rejected.

5. Appeal dismissed.

*(Pronounced in the open court on 22.12.2025)*

**(Dr. Ajay Krishna Vishvesha)**  
**Member (Judicial)**

**(Satendra Vikram Singh)**  
**Member (Technical)**

KL