



WP(MD)Nos.9589, 9806 & 11137 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.06.2023

Pronounced on : .01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.9589, 9806 & 11137 of 2017 and
WMP(MD) Nos.18981 & 18990 of 2018

WP(MD) No.9589 of 2017:-

M/s.Vetrivel Minerals (V.V.Minerals),

S.No.424 and 416

AMRL Hi Tech City Limited (SEZ),

Nanguneri,

Tirunelveli

Represented by its Managing Partner.

... Petitioner

Vs

1.Department of Commerce,

(Board of Approval),

Represented by Chairman and Secretary),

Udyog Bhawan,

New Delhi – 110 107.

2.The Development Commissioner,

MEPZ Special Economic Zone,



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National Highway – 45,
Tambaram,
Chennai – 45.

3.MEPZ Special Economic Zone,
National Highway – 45,
Tambaram,
Chennai – 45.
Rep by its Assistant Development Commissioner.

4.The District Collector,
Tirunelveli.

... Respondents

(R4 is implemented vide Court order dated 04.09.2017 in WMP(MD)
No.12351 of 2017)

WP(MD) No.9806 of 2017:-

M/s.Transworld Garnet Private Ltd.,
Palayamkottai High Road,
Kuttudankadu Village,
Tuticorin – 628 103.
Represented by its Managing Director
S.Jegatheesan

Petitioner

Vs

1.The Director General of Foreign Trade,
Directorate General of Foreign Trade,
Ministry of Commerce and Industry,
Udyog Bhawan,
New Delhi.



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2. Ministry of Commerce & Industry,
Represented by its Under Secretary,
Department of Commerce,
EOU Section,
Udyog Bhawan,
New Delhi.
3. The Assistant Development Commissioner,
Madras Export Processing Zone,
Special Economic Zone & HEOUs in Tamil Nadu,
Pondicherry & Andaman and Nicobar Islands,
Administrative Office Building,
National Highway – 45, Tambaram
Chennai – 600 045.
4. The Commissioner of Central Excise,
Central Revenue Building,
Tractor Street, NGO A Colony,
Tirunelveli – 627 007.
5. The Assistant Commissioner of Central Excise,
Tirunelveli Division,
Nehru Nagar,
NGO A Colony, Tirunelveli – 627 007.
6. The Assistant Commissioner of Central Excise,
Tuticorin Division,
C-50, Sipcot Industrial Complex,
Madathur Post,
Tuticorin – 628 008.



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7.The District Collector,
Tirunelveli.

(R7 is impleaded vide Court Order dated 13.03.2019 in WMP(MD) No.1416 of 2017).

WP(MD) No.11137 of 2017:-

1.V.V.Mineral,
Represented by its Partner,
V.Velmurugan,
Keeraikaranthattu,
Tisayanvilai – 627 657.

2.V.V.Mineral 100% EOU,
Represented by its Manager,
C.Sakthi Ganapathy,
Keeraikaranthattu,
Tisayanvilai – 627 657.
Tirunelveli District.

3.Transworld Garnet India Pvt Ltd.,
Palayamkottai High Road,
Kuttudankadu Village,
Tuticorin – 628 103.
Represented by its Jt.Managing Director,
S.Jegatheesan.

Petitioners

Vs

1.The Principal Secretary to Government,
Industries Department,
St.George Fort, Chennai – 600 009.



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2.The District Collector,
Palayamkottai Road,
PSP Nagar,
Korampallam,
Thoothukudi – 628 101.

3.The Sub Collector,
Tuticorin.

4.The Revenue Divisional Officer,
Tiruchendur and Kovilpatti.

5.The Taluk Level Committee,
Represented by Tahsildar,
Tuticorin,
Vilathikulam and Tiruchendur

Respondents.

PRAYER in WP(MD) No.9589 of 2017:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the first respondent regarding order dated 27.03.2017 , quash the same also the order of the third respondent bearing Letter No.8/11/2011 AMRL-SEZ/5769, dated 28.12.2016.

PRAYER in WP(MD) No.9806 of 2017:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records relating to the order passed by the third



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respondent in Lr.No.19/32/96/EOU/TN/5760, dated 28.12.2016 to suspension of Letter of Permission bearing No.Per/207/95/EOB/51/95, dated 04.05.1995 on the file of the third respondent herein and all other consequential including orders affecting manufacturing activities of all other respondents and quash the same.

PRAYER in WP(MD) No.11137 of 2017:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records of the impugned order in ROC No.LrNo.E1/3062/2017, dated 22.03.2017, dated 22.03.2017 passed by the second respondent insofar as the petitioners are concerned and quash the same and consequently forbear the respondents from interfering with the export activities of the petitioners with regard to the stock of major minerals available in the bonded warehouses of the petitioners.

For petitioner	: No appearance
For R1 to R3	: Mr.D.Saravanan Central Government Standing Counsel
For R4	: Mr.R.Baskaran Additional Advocate General Assisted by Mr.P.T.Thiraviam Government Advocate

(In WP(MD) No.9589 of 2017)



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For petitioner : No appearance
For R1 to R6 : Mr.D.Saravanan
Central Government Standing
Counsel
For R7 : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.P.T.Thiraviam
Government Advocate

(In WP(MD) No.9806 of 2017)

For petitioner : No appearance
For Respondents: Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.P.T.Thiraviam
Government Advocate

(In WP(MD) No.11137 of 2017)

COMMON ORDER

The petitioner in WP(MD) No.9589 of 2017, namely, M/s.Vetrivel Minerals(V.V.Minerals) is a quarry operator, quarrying, processing the Beach sand minerals and also exporting the same. This petitioner was issued with a licence/Letter of Approval under Special Economic Zone Act, 2005 to process and export minerals such as



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Garnet Illuminate Rutile, Zircon etc., The Assistant Development Commissioner, MEPZ Special Economic Zone by his order dated 28.12.2016 has suspended the manufacture and export activities of the petitioner's Company from warehouse, where letter of approval was granted to the petitioner's company. As against this suspension order, dated 28.12.2016, this petitioner has preferred an appeal before the Secretary, Ministry of Commerce and Industry and the Board of approval has rejected the appeal filed by this writ petitioner. Therefore, this petitioner has filed a writ petition in WP(MD) No.9589 of 2017 as against the suspension order of the Assistant Development Commissioner, MEPZ Special Economic Zone, dated 28.12.2016 and the orders of the Appellate Authority/Board of approval dated 08.03.2017.

2.The petitioner in WP(MD) No.9806 of 2017, namely, M/s.Transworld Garnet India Private Ltd., a 100% export oriented



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Unit was issued with a Letter of Permission under the Foreign Trade (Development and Regulation) Act, 1992 by the Assistant Development Commissioner, Madras Export Processing Zone, Special Economic Zone & HEOUs, for processing and exporting garnet in the year 1995. The Assistant Development Commissioner, MEPZ Special Economic Zone / the third respondent herein has suspended the Letter of Approval granted to the petitioner by order dated 28.12.2016. Challenging the suspension order, the petitioner has filed an appeal before the Director General of Foreign Trade, Ministry of Commerce and Industry on 23.01.2017 and the same was refused and returned to the petitioner. Aggrieved over the same, the petitioner, M/s.Transworld Garnet India Pvt Ltd has filed this Writ petition in WP(MD) No.9806 of 2017.

3.Since both the writ petitions are filed challenging the orders of suspension, these writ petitions are taken up together for



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disposal. Pending these writ petitions, the petitioners in both writ petitions have jointly filed another writ petition in WP(MD) No.11137 of 2017, challenging the orders of the District Collector, Tuticorin, dated 22.03.2017, directing the Taluk Level Committee to take stock of the minerals, beach sand minerals in the petitioners' lease hold area and godown, processing units and the warehouses under the Special Economic Zone. The District Collector, Tuticorin by his impugned order has also directed the Taluk Level Committee to lock and seal the godown of the petitioners.

4.As these issues are arising out of the suspension orders, suspending the Letter of approval granted to the petitioners and the related order of the District Collector, Tuticorin, dated 22.03.2017 these writ petitions are taken up together and disposed of by way of this common order.



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5.The Government of India, in order to generate economic activity, to promote exports and the goods and services and also for the purpose of creation of employment opportunities notifying certain places as Special Economic Zones with some privileges. The goods and services, which are exported or imported in the said Zones are exempted from payment of tax, duties and cess under the enactment specified in the I schedule of the Special Economic Zone Act, 2005.

6.V.V Minerals was issued with a licence /Letter of Approval under the Special Economic Zone Act 2005 on 02.12.2011. Similarly, the Assistant Development Commissioner, Madras Export Processing Zone, Special Economic Zone had issued a Letter of Permission to M/s.Transworld Garnet India Private Ltd, Tuticorin/the petitioner in WP(MD) No.9806 of 2017, for the purpose of manufacture and export of Almandite Garnete sand. These letter of approvals and the letter of permission issued to the petitioner



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companies were suspended by the Assistant Development Commissioner/the third respondent herein by order dated 28.12.2016, which is impugned in these writ petitions. Letter of Approval granted to V.V Minerals under the Special Economic Zone Act, 2005 on 02.12.2011 is for a period of five years and it expires on 31.03.2017. Similarly the letter of permission granted to M/s.Transworld Garnet India Pvt Ltd on 04.05.2012 and the same was expired on 22.04.2017. The main contention of the petitioners is that the orders of suspension were passed without providing an opportunity of hearing and without issuing any show cause notice.

7.When these writ petitions were taken up for hearing on 07.06.2023, a representation was made on behalf of the petitioners that the senior counsel, who is leading in these matters will appear before this Court on 13.06.2023. Hence, the matters were adjourned to 13.06.2023. However, it is noticed that for the hearings on 15.06.2023,



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16.06.2023 and 21.06.2023, there was no representation for the petitioners. Thereafter, at the instance of the learned Additional Advocate General appearing for the respondents, these matters were adjourned to 28.06.2023. Even on 28.06.2023, there was no representation for the petitioner. Considering the fact that this issue is pending from the year 2017, this Court is inclined to dispose of these writ petitions with the available materials.

8.The stand of the respondents is that the Beach sand mining activities were stopped with effect from 08.08.2013 in Tuticorin District vide G.O.No.156, Industries (MMD.1), Department, dated 08.08.2013 and mining operations of Beach sand minerals, like, Garnet, Illiminite and Rutile were also stopped in the remaining Districts such as Trichy, Tirunelveli and Kanyakumari District vide G.O.(Ms) No.173, Industries (MMD.1), Department, dated 17.09.2013. Therefore, there cannot be any quarry operations of Beach sand



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minerals after the year 2013. One Dhaya Devadoss, the President, Federation of Indian Placer Minerals and the Makkal Seidhi Maiyam has lodged a complaint before the Ministry of Commerce and Industrial that the petitioners are conducting illegal quarry operations and also transporting Beach sand minerals and its process. Therefore, the Ministry of Commerce directed the Assistant Development Commissioner/the third respondent to look into this issue. The third respondent has confirmed the same and a clarification was sought for from the District Collector, Tirunelveli and Tuticorin regarding the transport/storing of mines and minerals, which were banned in the year 2013, by letter dated 16.12.2016. The District Collector, Tuticorin has informed that they are not issuing any Transport permits with effect from 08.08.2013 and pursuant to the ban orders, the export and import of transport of Beach sand minerals were prohibited. Based on this proceedings of the District Collector, the Assistant Development Commissioner had passed the impugned order of suspension, dated



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28.12.2016. As against this order, dated 28.12.2016, M/s.V.V.Minerals has preferred an appeal before the Board of approval, under Section 15(4) of the Special Economic Zone Act, 2005 r/w Rule 55 of Special Economic Zone Rules and the same was remanded for fresh consideration as per rules. The appeal filed by M/s.Transworld Garnet India Private Ltd was rejected and it was not taken on file by the Appellate/Competent authority.

9.The petitioners' business place was notified under the Special Economic Zone Act, 2005. The letter of approvals given to the petitioners in the year 2011 were suspended by the Assistant Development Commissioner/the third respondent, by order, dated 28.12.2016. The letter of approvals were granted to these petitioners for the purpose of processing and exporting mineral garnet and that too for a specific period of five years. The period itself is over in the year 2017. More over, the impugned orders of suspension were passed in



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view of the prohibitory order passed by the Government of Tamilnadu in the year 2013 in G.O.(Ms) No.156 Industries (MMD.1), Department, dated 08.08.2013. By the said Government Order, the mining operations of beach sand mineral, garnet and other related minerals were stopped. Therefore, there is no reason to interfere with the impugned orders. Pending these writ petitions, the Government of India has also taken a policy decision and prohibited all beach sand mining activities by way of an amendment to the Atomic Minerals Concession Rules, 2016 that there cannot be any permission for quarrying any minerals with 0% tailings of monozite. Subsequent to the amendment, private quarry operations can not do any mining of beach sand mineral. Therefore, the very object for which the letter of approvals granted does not exist. Hence, this Court is inclined to dismiss these two writ petition in WP(MD) Nos.9589 & 9806 of 2017.



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10.The other writ petition in WP(MD) No.11137 of 2017 is filed by M/s.V.V.Minerals as against the orders of the District Collector, Tuticorin, which was issued pursuant to the clarification sought for by the Assistant Development Commissioner, Special Economic Zone on 16.12.2016. The Assistant Commissioner, Customs House, Tuticorin, noticing a Transport permit issued to M/s.V.V.Minerals, to export 420 metric ton of garnet in the month of March 2017, sought for a clarification from the District Collector, Tuticorin as to the genuineness of the Transport permit for transporting, exporting garnet, when the Government of Tamilnadu has prohibited quarry of beach sand minerals vide Government orders in G.O.(Ms) No.156 and 173, Industries (MMD.1), Department, dated 08.08.2013 and 17.09.2013. By the said Government orders, the mining operations of beach sand minerals including garnet, illuminate, rutile were stopped and the Assistant Director, Mines were also prohibited from issuing any transport permit or gatepass to the lessees



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of beach sand minerals with effect from 08.08.2013. While so, a transport permit was granted to M/s.V.V.Minerals, to transport, export 420 metric ton of garnet in the year 2017. Therefore, the Assistant Commissioner, customs house, Tuticorin has called for a clarification on the genuineness of the Transport permit issued to M/s.V.V.Minerals. Since a Transport permit was issued by the Assistant Director of Geology and mining as against the ban orders as stated supra, the District Collector, Tuticorin also issued directions to the Taluk Level Task Committees to take note of the stocks, which are available in the lease hold area, Godown, processing units etc., of M/s.V.V.Minerals and to lock and seal those premises, in order to prevent any further transport of minerals, garnete, illuminate, rutile.

11.The District Collector being the Chairman of the District Level Task Force constituted by the Government to prevent the illicit and illegal transport of minerals is right in passing the order



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dated 22.03.2017, when it has been reported to him that a transport permit was issued by the Assistant Director of Geology and mining to the petitioner's Company in the year 2017, when the quarry operations have been banned from the year 2013. Therefore, this Court is not inclined to entertain the other writ petition in WP(MD) No.11137 of 2017 also.

12.In view of the above, this Court finds no infirmity in the suspension orders passed by the Assistant Development Commissioner, MEPZ Special Economic Zone, dated 28.12.2016 and the order passed by the District Collector, Tuticorin, dated 22.03.2017 and accordingly, all these writ petitions are dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

.01.2024.

NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn

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To

- 1.The Chairman and Secretary,
Department of Commerce,
(Board of Approval),
Udyog Bhawan,
New Delhi – 110 107.
- 2.The Development Commissioner,
MEPZ Special Economic Zone,
National Highway – 45,
Tambaram,Chennai – 45.
- 3.The Assistant Development Commissioner.
MEPZ Special Economic Zone,
National Highway – 45,
Tambaram,
Chennai – 45.
- 4.The Director General of Foreign Trade,
Directorate General of Foreign Trade,
Ministry of Commerce and Industry,
Udyog Bhawan,
New Delhi.
- 5.The Commissioner of Central Excise,
Central Revenue Building,
Tractor Street, NGO A Colony,
Tirunelveli – 627 007.



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6. The Assistant Commissioner of Central Excise,
Tirunelveli Division,
Nehru Nagar,
NGO A Colony, Tirunelveli – 627 007.
7. The Assistant Commissioner of Central Excise,
Tuticorin Division,
C-50, Sipcot Industrial Complex,
Madathur Post, Tuticorin – 628 008.
8. The Principal Secretary to Government,
Industries Department,
St. George Fort, Chennai – 600 009.
9. The District Collector,
Palayamkottai Road,
PSP Nagar,
Korampallam, Thoothukudi – 628 101.
10. The District Collector,
Tirunelveli.
11. The Sub Collector,
Tuticorin.
12. The Revenue Divisional Officer,
Tiruchendur and Kovilpatti.
13. The Taluk Level Committee,
Represented by Tahsildar,
Tuticorin,
Vilathikulam and Tiruchendur



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Pre-delivery Order made in
WP(MD)Nos.9589, 9806 & 11137 of 2017 and
WMP(MD) Nos.18981 & 18990 of 2018

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