	OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62
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A	File No.	F. No. VIII/ 48-26/EXP/Ambika/CHM/2019-20
B	Order-in-Original No.	MCH/ADC/SK/125/2019-20
C	Passed by	Shri Sushant Kumar, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D	Date of Order	21.03.2020
E	Date of Issue	21.03.2020
F	SCN NO. & Date	VIII/ 48-26/EXP/Ambika/CHM/2019-20 dated 15.05.2019
G	Noticee / Party / Exporter	M/s. Ambika Enterprises, House No.72/2,Vill.Bordiyas,Gega ka Khera, Bhilwara, Rajasthan-311011(IEC AGTPR3216L).

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त (अपील),

7वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS),

Having his office at 7th Floor, Mridul Tower, Behind Times of India,

Ashram Road, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए ।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -

- (i) उक्त अपील की एक प्रति और

A copy of the appeal, and

- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम 1870-के मद सं. 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo..

6. अपील प्रस्तुत करते समय, सीमा शुल्क) अपील (नियम, 1982और सीमा शुल्क अधिनियम, 1962के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 %भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Subject: - SCN No. VIII/ 48-26/EXP/AMBIKA/CHM/2019-20 dated 15.05.2019 issued to M/s. Ambika Enterprises, House No.72/2,Vill.Bordiyas, Gega ka Khera, Bhilwara, Rajasthan-311011 (IEC AGTPR3216L)

Brief facts of the case:

M/s. Ambika Enterprises, House No.72/2,Vill.Bordiyas,Gega ka Khera, Bhilwara, Rajasthan-311011(IEC AGTPR3216L) (henceforth referred to as "Noticee or "Exporter") are engaged in the export of "Natural Abrasive Sand (Custom Tariff Item 25132090)" from the Customs port of Mundra.

2. The Customs Broker M/s. Baba Ramdevpir Shipping, Mundra (henceforth, Customs Broker) on behalf of the exporter presented a Shipping Bill No. 2476524 dated 04.03.2019 (**RUD-1**) to Docks Examination Officers, Customs House Mundra for Let Export Order of the cargo declared as " Natural Abrasive Sand", classified under Custom Tariff Item 25132090, having Net Quantity of 84 MTs, with FOB Value of Rs.15,39,733.50 under Invoice No.042 dated 02.03.2019. The said export cargo was sought to be exported to KUWAIT.

3. Whereas, it appears that the Directorate General of Foreign Trade , New Delhi (herein after referred to as "DGFT") vide Notification No.26/2015-20, dated 21.08.2018 (**RUD-2**) has made amendment in export policy of "Beach Sand Minerals" in Chapter 26 of Schedule 2 of ITC (HS) Classification of Export and Import Items. The para 2, 3, and 4 of the above notification are re-produced 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 SI. 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 SI. 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 SI. No. 98A of Chapter 26 of Schedule 2 Export Policy”.....

4. Whereas, it appears that export of above mentioned goods, i.e Beach Sand Minerals have been brought under State Trading Enterprise and is canalized through Indian Rare Earth Limited (IREL). In this regards, for sake of clarity, M/s. IREL have supplied typical specifications of OR Coarse grade (-30 + 60) Garnet and OR Medium Garnet for guidance. They also suggested that any product with predominant content of Garnet in the export consignment needs to be classified as Garnet under ITC (HS) code 25132030.

5. Whereas, in pursuant to above provisions, while assessing the said export consignments, instruction were given to the Dock Examination officer to Draw the representative Sample of cargo goods get it tested before granting LEO.

6. However, the exporter (Noticee) vide their letter dated 10.03.2019 have submitted that the goods to be exported is not beach natural garnet and requested that they may be missing the connecting vessels due to the delay in procedure of getting lab test report and also have to pay heavy ground rent. They also stated that obtaining sample report takes more time to submit to this office for obtaining Let Export Order, this process affects delay in their export

shipment, therefore they requested to allow them to process and issue LEO before obtaining sample report from the lab. Therefore, the exporter furnished a BOND UNDERTAKING (Bond No. 188 dated 13.03.2019) for Bond Value of Rs.16,23,930/- (**RUD-3**), against said export consignments; pending chemical test report. Accordingly, samples of cargo were drawn by the Officers of Docks examination Section for test and sent to Central Revenue Control Laboratory, N.Delhi(henceforth, CRCL) vide Test Memo No.EXP/MP&SEZ/01/18-19 dated 12.03.2019 (**RUD-4**). LEO was granted to them on 13.03.2019 for provisional export against the said test bond.

7. Whereas it appears that the Test Report dated 29.03.2019 received from the Chemical Examiner, CRCL, New Delhi for the said cargo shipment is appended below (**RUD-5**)-

EXP/MP & SEZ / 01 / 2018-19 DATE: 12-03-2019 LAB - CRCL New Delhi

(TO BE FILLED BY IMPORTER/EXPORTER/CHA)

IF FOLLOWING SAMPLES ARE FORWARDED FOR FAYOUR OF ANALYSIS

CL-1948
26-3-19

GROUP: S/Z NO: 2476524 DATE: 04/03/2019 TYPE: CHA NO: AECPB8192ACH002

Manufacturer's Name: _____

Supplier Name: _____

Name and Address of EXPORTER: **AMBIKA ENTERPRISES, H. NO. 72/2, VILL. BORDIYAS, GEGAKA KHERA - BHILWARA, RAJASTHAN**

Country: KUWAIT Vessel name: _____

EXPORTER: **AMBIKA ENTERPRISES**

Marks & Number's: _____

Description: **NATURAL ABRASIVE SAND**

Specification: _____

Brand: _____ Literature Enclosed: _____

FOR OFFICE USE ONLY

Key Word 1: **NATURAL** Key Word 2: **COMPOSITION**

Test Query 1. Chemical Constitution 2. **CTH**

3. WHETHER THE SAMPLE CONSISTS OF ANY OF BEACH SAND MINERALS (ILMENITE, RUTILE, LEUCOXENE (TITANIUM BEARING MINERAL) ZIRCON, GARNET, SILLIMANITE AND MOAZITE(URANIUM AND THORIUM) OR OTHERWISE 4. _____

Condition of Release: 1. Against Bond (A) Bond No. _____ (B) Exp. _____

Date: _____ 2. Partial release rage Released: _____

T.R Validity in Months: _____

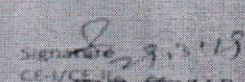
Signature of P.O. *Kuldeep Singh Chahar*
C.H.M.P & SEZ, MUNDRA 12/03
Kuldeep Singh Chahar

Kuldeep Singh Chahar
Preventive Officer

ASST.COMMISSIONER OF CUSTOMS (GROUP)

15/03/19

2019-5-13 16:03

भारत सरकार वित्त मंत्रालय, राजस्व विभाग केन्द्रीय संप्रदाय कर एवं सीमा शुल्क बोर्ड केन्द्रीय राजस्व निवृत्तन प्रयोगशाला हिम साहय रोड, पुणे, महाराष्ट्र - 411002		Government of India Ministry of Finance, Department of Revenue Central Board of Indirect Taxes & Customs Central Revenues Control Laboratory Hillside Road, Pune, New Delhi Tel: 011-21920123/25645494 Fax: 011-21920124 Email: dir.crcil.cbic@nic.in Website: http://www.crcil.gov.in		
TEST REPORT				
Lab No: CL-1548E		Date: 26.3.19		
Name & Contact information of Customer: Superintendent of customs, Mundra.				
Identification Method Used:		Date of Receipt: 26.3.19		
Description Of Sample: Abrasive powder				
Sample Plan: Sample not Drawn By this Laboratory:				
S.No.	Parameter	Test Method	Result in SI units	Specified Value
1	XRD Analysis		Iron Aluminum silicate	-
Report: The sample is in the form of reddish brown coloured powder. On the basis of physical, chemical & XRD analysis, the sample is natural Garnet (Almandine- in the form of Iron Aluminium Silicate). Density = 4.312 gm/cm ³ Sealed remnant returned.				
Signature:  M.P. SINGH Chemical Engineer (G. II)				
Note 1: The results relate only to the items tested Note 2: Sample not Drawn by this laboratory. Note 3: The report shall not be reproduced except in full without approval of this laboratory.				
2019-5-13 16:03				

8. In the above Chemical Report, it has been reported that the **sample is natural Garnet (Almandine-in-the form of Iron Aluminum Silicates)**.

9. From the above chemical report, it appears that the cargo/goods in question is "Natural Garnet" and same appear liable to be classifiable under Custom Tariff Item 25132030 and not as Natural Abrasive Sand (Customs Tariff Item 25132090) as declared and classified by the exporter. Therefore, it appears that the exporter has mis-declared the said goods as Natural Abrasive Sand, seeking to export the goods classifiable under Custom Tariff item 25132030 which are restricted for exports only through the State Trading Enterprise. Therefore, it appears that the exporter has contravened the provisions of export policy as stipulated by DGFT and mis-declared the Custom Tariff item No. on purpose & intent to circumvent the restrictions imposed through the Export Policy. The exporter also purposefully mis-declared the description of the goods as "Natural Abrasive Sand" when in fact the goods are actually correctly liable to be described as "Natural Garnet". Thus, the cargo appeared to be mis-declared in respect of description of the goods. Thus, it appears mis-declared for description and have been purposely misclassified in the Shipping Bill No. 2476524 dated 04.03.2019, therefore, the cargo is liable for confiscation under Section 113(d) and (i) of the Customs Act, 1962. However, the said cargo goods were exported out of India against a Bond and same are not physically available for confiscation.

10. It further appears that the Exporter M/s. Ambika Enterprises, Bhilwara have furnished false and incorrect information in the invoice and check list of the shipping bill and thereby, attempted to export the cargo of Natural Garnet

in the guise of Natural Abrasive Sand and have with intent and design attempted to export mis-declared goods "Natural Abrasive Sand" and for their act of omission and commission to make the goods liable for confiscation under Section 113(d) and (i), they appear liable to penal action under the provisions of Section 114 (i) of the Customs Act, 1962.

11. Now, therefore, the exporter M/s. Ambika Enterprises, Bhilwara are hereby called upon to show cause to the Additional Commissioner of Customs, (Export) Custom House, Mundra as to why;

- (i) the declared description "Natural Abrasive Sand" and the declared classification under Custom Tariff Item 25132090 should not be rejected and description "Natural Garnet" and classification under Custom Tariff item 25132030" should not be taken as correct description and classification for 84 MTs of goods exported provisionally under Bond vide Shipping Bill No. 2476524 dated 04.03.2019.
- (ii) the said goods released provisionally for export under Bonds, should not be confiscated under the provisions of Section 113(d) and (i) of the Customs Act, 1962. As the goods has been provisionally released on exporter furnishing Bond, therefore redemption fine under section 125 of the Customs Act, 1962 should not be imposed upon them.
- (iii) penalty should not be imposed on the exporter M/s. Ambika Enterprises, under the provisions of Section 114 (i) of the Customs Act, 1962.
- (iv) why the Bond furnished by the exporter should not be enforced against for recovery of fine & penalty imposed.

Written Submission:

Shri Vijay Vikram Singh Ranawat, Proprietor of M/s. Ambika Enterprises, Bhilwara, submitted his written reply dated 18.03.2020. Vide said letter he stated that he is not agree with the letter received by him regarding the shipment of garnet as the product exported was abrasive sand and not garnet. He further stated that export material is made by crushing the stone in crusher and screening the same using screener and making grains and powder, which is abrasive sand.

Record of Personal Hearing

Shri Vijay Vikram Singh Ranawat, Proprietor of M/s. Ambika Enterprises, Bhilwara, appeared before me for personal hearing. He submitted his written reply dated 18.03.2019 and re-iterated the same. He has nothing else to add.

Discussion & Findings:

1. Shri Vijay Vikram Singh Ranawat, Proprietor of M/s. Ambika Enterprises, Bhilwara, submitted his written reply dated 18.03.2020, apart from this he has nothing else to add. Therefore, I have to proceed to decide the matter based on material available on record. In this regard, I have gone through the Show Cause Notice, written reply of the noticee & relevant legal provisions and proceed to decide the case based on the same.
2. Before going into the merits of the case, I discuss what the material called as "Garnet" is for ease of understanding the case. As per literature available at <https://en.wikipedia.org/wiki/garnets> are a group of Silicate Minerals that have been used since the Bronze Age as gemstones & abrasives. All species of garnets possess similar physical properties and crystal form but differ in chemical composition. The different species are pyrope, almandine, spessartine, grossular & andradite. Garnet species are found in many colors including red, orange, yellow, green, blue, purple, pink, brown, black and colorless.
3. Garnets are nesosilicates having the general formula $X_3Y_2(SiO_4)_3$. The X site is usually occupied by divalent cations (Ca, Mg, Fe, Mn)²⁺ and the Y site by trivalent cations (Al, Fe, Cr)³⁺ in an octahedral/tetrahedral framework with $[SiO_4]^{4-}$ occupying the tetrahedra. Because the chemical composition of garnet varies, the atomic bonds in some species are stronger than in others. As a result, this mineral group shows a range of hardness on the Mohs scale of about 6.5 to 7.5. The harder species like almandine are often used for abrasive purposes.

3.1 Almandine

Almandine, sometimes incorrectly called almandite, is the modern gem known as carbuncle. The term "carbuncle" is derived from the Latin meaning "live coal" or burning charcoal. Chemically, almandine is an iron-aluminum garnet with the formula $Fe_3Al_2(SiO_4)_3$. The deep red transparent stones are often called precious garnet are used as gemstones.

3.2 Industrial Uses:

Garnet sand is a good abrasive and a common replacement for silica sand in sand blasting. Alluvial garnet grains which are rounder are more suitable for such blasting treatments. Mixed with very high pressure water, garnet is used to cut steel and other materials in water jets. For water jet cutting, garnet extracted from hard rock is suitable since it is more angular in form, therefore more efficient in cutting. Garnet sand is also used for water filtration media. As an abrasive, garnet can be divided into 2 categories, blasting grade & water jet grade. There are different kinds of abrasive garnets which can be divided based on their origin. The largest source of abrasive garnet today is garnet-rich beach sand which is quite abundant on Indian and Australian coasts and the main producers today are Australia and India. Most of the garnet at Tuticorin beach

in South India is 80 mesh & ranges from 56 mesh to 100 mesh size. River garnet is particularly abundant in Australia. Rock garnet is perhaps the garnet type used for longest period of time. This type of garnet is produced in America, China & Western India. Garnet has been mined in western Rajasthan in north western India for the past 200 years, but mainly for the gemstone grade stones. Abrasive garnet was mainly mined as a secondary product while mining for gem garnets and was used as lapping and polishing media for the glass industries.

Vide their letter dated 18.03.2020, the exporter has stated that they do not agree with the letter (with reference to SCN No .VIII/48-26/EXP/Ambika/CHM/2019-20 dated 15.05.2019) received by them regarding the shipment of garnet as the product they exported was Abrasive sand. The material they exported was not garnet, it was only Abrasive sand. The material they exported is made by the crushing the stone in crusher and then screening it using screener and hence, making grains and powder which is only Abrasive sand.

4. In this context, I find that the test report of CRCL, New Delhi laboratory Lab No: CL-1548 E dated 29.03.2019 has clearly concluded that on basis of physical, chemical & XRD analysis, the sample is natural garnet (Almandine in the form of Iron Aluminium Silicate). The density is stated to be 4.312 gm/cm³. Beyond this, nothing is stated. The contention of the exporter that the material exported by them was not garnet, it was only Abrasive sand, is not supported by any evidence. Further, the Test report unambiguously reports the goods as Natural garnet. The noticee has neither given any literature, Test report or write up for what they claim to be Abrasive sand. The argument made are only figment of imagination, the averments are absurd and fictitious. Their attempt to proffer that abrasive sand are something different from garnet shows the illiteracy of the exporter about the issue involved and also exposes the attempt to mislead the adjudicating authority. I reject the averments in toto as being false and also take a note of attempt to mislead the adjudicating authority.

5. The ITC (HS) for Chapter 25 reads

2513	- Pumice stones; emery; natural corundum, natural garnet and other natural abrasives, whether or not heat-treated
2513 10 00	- Pumice stone
2513 20	- Emery, natural corundum, natural garnet and other natural abrasives:
2513 20 10	- Emery
2513 20 20	- Natural Corundum
2513 20 30	- Natural garnet
2513 20 90	- Other

In Schedule 2, of the Custom Tariff, a new entry 98A has been added. This entry has specific mention of Tariff Item (HS Code) 25132030 in column Tariff Item HS Code and the item description is "Beach Sand Mineral (Ilmenite, Rutile, Leucoxene, Titanium bearing mineral, zircon, garnet, sillimanite and monazite (Uranium and Thorium), under the column item description. Under item with title export policy it is mentioned that STE (State Trading Enterprises) and under column policy it is mentioned that export through M/s Indian Rare Earth Limited (M/s IREL). The test report of CRCL, New Delhi clearly mentions the goods as "Natural Garnet". Hence, the goods are liable for classification under Customs Tariff Item 25132030 only and not under Customs Tariff Item 25132090 as has been declared by the exporter M/s Ambika Enterprises, Bhilwara, Rajasthan under shipping bill no. 2476524 dated 04.03.2019. The ascertained correct description is also (Natural) garnet and therefore, the declared description "Natural Abrasive Sand" needs to be rejected.

6. I hold that subject goods viz. 'Garnet' is classifiable as per export policy in vogue vide notification No.26/2015-20 dated 21.08.2018 viz. goods need to be exported only through State Trading Enterprises viz. M/s Indian Rare Earth Limited. Since, this condition, which is statutorily imposed under Import-Export Policy issued in terms of Section 3 of the Foreign Trade (Development & Regulation) Act, 1992 of exporting garnet through M/s IREL is not followed for the following goods:-

Sr No	Shipping Bills Details	Net Weight Kg	FOB Value Rs.	Ascertained Description
	2476524 dated 04.03.2019	84,000	15,39,733.50/-	Natural Garnet

Hence, I hold that 84,000 Kgs of natural garnet valued at Rs. 15,39,733.50/- is liable for confiscation under section 113 (d) and 113(i) of Customs Act 1962.

7. I find there is specific entry in Customs Tariff Item (HS) 25132030 which is for Natural Garnet. The specific Mineral "Garnet" is also mentioned under column "Item Description" in Notification No. 26/2015-20 dated 21.08.2018 of DGFT. The term Beach Sand Mineral has to be taken as Generic term and not specially of only those minerals mined on the beach. The natural garnet is found both on beach and inland. As per the literature in Wikipedia, Garnet is mined in Rajasthan and also at Tuticorin beach in South India. Based on Test report dated 29.03.2019 of CRCL, New Delhi, which reported that the sample is Natural Garnet (Almandine in the form of Iron Aluminium Silicates) and the same was communicated to the exporter by this office vide letter dated 08.05.2019. It was also communicated to them that the export goods being Natural Garnet are not freely exportable in terms of Notification No. 26/2015-2020 dated 21.08.2018 issued by the DGFT. The Customs Tariff item 25132030 is specifically mentioned in the DGFT Notification No. 26/2015-20 dated 21.08.2018 and the item description in the said Notification covers Garnet. It

does not differentiate between garnet found from Beach Sand and Garnet from inland India. Since the noticee has not submitted their written reply and not refuted the allegation made in the SCN, I find that the allegation made in the SCN stands established unrefuted. Thus the impugned export goods are Natural Garnet classifiable under CTH 25132030 which are restricted for exports only through State Trading Enterprise (IREL). The exporter in the instant case has misdeclared the export goods as Abrasive Mesh on purpose and intent to misclassify the same under CTH 25132090 in order to circumvent the restrictions imposed on the export of Natural Garnet classifiable under CTH 25132030 vide the abovesaid notification. This mis-declaration of description and subsequent mis classification of export goods with intent to circumvent the Export policy as discussed hereinbefore has rendered the export goods liable to confiscation under Section 113(d) and 113(i) of the Customs Act, 1962.

8. In view of the above, I hold that the description "Natural Abrasive Sand" mentioned in impugned Shipping Bill no. 2476524 dated 04.03.2019 is clear cut mis-declaration of description as the export goods are reported by the CRCL, New Delhi to be Natural Garnet and therefore 84,000 Kg of Garnet covered under the said Shipping Bill is liable for confiscation under Section 113 (i) of the Customs, 1962. For violation of export policy as discussed above the natural garnet exported is also liable for confiscation under Section 113(d) of Customs Act, 1962. I also hold that for acts and omission to do any acts which have rendered the export of "Garnet" liable for confiscation under Section 113 (i) & (d) of the Customs Act, 1962, the exporter M/s Ambika Enterprises, Bhilwara, Rajasthan is also liable for penalty under Section 114 (i) of the Customs Act, 1962.

9. In view of the above, I pass the following order-

ORDER

9.1 I order the rejection of declared description "Natural Abrasive Sand" mentioned in Shipping Bill no. 2476524 dated 04.03.2019 and order that actual description for goods under this shipping bill on final assessment of shipping bills be taken as 'Garnet'.

9.2 I order the rejection of classification of garnet under customs tariff item 25132090 and order to reclassify the goods under Customs Tariff item 25132030 on final assessment of Shipping Bill no. 2476524 dated 04.03.2019.

9.3 I order confiscation of 84,000 Kg of Garnet having FOB value of Rs. 15,39,733.50/- and covered under Shipping Bill no. 2476524 dated 04.03.2019 filed by M/s Ambika Enterprises, Bhilwara, Rajasthan, in terms of Section 113(d) & 113 (i) of the Customs Act, 1962. Since, the goods are not available for confiscation being released provisionally under bond, I impose fine of Rs. 3,80,000/- (Rs Three Lakh Eighty Thousand only) in terms of Section 125 of the Customs act, 1962.

9.4 I also impose a penalty of Rs. 1,60,000/- (Rs. One Lakh Sixty Thousand only) under Section 114 (i) of the Customs Act, 1962.

9.5 I order that the Bonds furnished by the exporter be enforced for recovery of fine & penalty imposed. The Shipping Bill no. 2476524 dated 04.03.2019 be assessed finally in conformity with this order as regards description and classification of goods exported.

12
21/03/2020

(Sushant Kumar)
Additional Commissioner
Customs House, Mundra

DIN-20200371MO 00007V6C80

**M/s. Ambika Enterprises,
House No.72/2,Vill.Bordiyas,
Gega ka Khera, Bhilwara,
Rajasthan-311011
(IEC AGTPR3216L)**

Copy to:

- (1) The Principal Commissioner, Customs House, Mundra.
- (2) The Assistant Commissioner (RRA), Customs House, Mundra.
- ✓ (3) The Assistant Commissioner (EDI), Customs House, Mundra.
- (4) GM, Marketing, Plot No.1207, ECIL Bldg,Veer Savarkar Marg
Opp.Siddhivinayak Temple, Prabhadevi, Mumbai-400 028, Indian
Rare Earth Limited, Mumbai.
- (5) Guard file

