

SECTION – 1

Mineral Legislation and Policy on Export and Import of Minerals/Ores

1. MINERAL LEGISLATION

A. Amendments/Notifications:

1) **Ministry of Steel, S.O.2128(E)** – In exercise of the powers conferred by section 14 of the Bureau of Indian Standards Act, 1986 (63 of 1986), the Central Government hereby makes the following amendment in the Steel and Steel Products (Quality Control) Second Order, 2012 of the Government of India in the Ministry of Steel, published in Part II, Section 3, Sub-section (ii) of the Gazette of India, Extraordinary, vide number S.O.415 (E), dated the 12th March, 2012, namely:-

In the Steel and Steel Products (Quality Control) Second Order, 2012,-

i) In paragraph 1, for sub-paragraph (2), the following shall be substituted, namely:-

"Save as otherwise provided, this Order shall come into force with effect from the 12th September, 2012";

ii) for the Schedule, the following Schedule shall be substituted, namely:-

"Schedule

[See paragraph 2(f) and 3]

List of steel products under mandatory Bureau of Indian Standards certification

	Indian Standard number	Title	ITC(HS) Code	Date of coming into force of the produce in the standard to the extent given below	
				(A) Product	(B) With effect from
	(1)	(2)	(3)	(4)	
1.	2002	Steel plates for pressure vessels for intermediate and high temperature service including boilers	72085110 72085120 72085210 72085220 72111300 72111420 72111490 72119011 72119090	(a) Plates of thickness more than 80mm and weight more than 12 tonne in Ultrasonic Tested condition; (b) Plates of thickness less than 16 mm but width more than 4000 mm; (c) For other products excluding (a) and (b) above	31 st March, 2013 12 th September, 2012
2.	2041	Steel plates for pressure vessels used at moderate and low temperature	72085110 72085120 72085210 72085220 72111300 72111420 72111490 72119090	(a) Plates of thickness more than 80mm and weight more than 12 tonne in Ultrasonic Tested condition; (b) Plates of thickness less than 16 mm but width more than 4000 mm; (c) for other products excluding (a) and (b) above	31 st March, 2013 12 th September, 2012

	(1)	(2)	(3)	(4)	
3.	2830	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	72061090 72071190 72071290 72071920 72071990	All products	12 th September, 2012
4.	2831	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into low tensile structural steel	72061090 72071190 72071290 72071920 72071990 72072090	All products	31 st March, 2013
5.	1786	High strength deformed steel bars and wires for concrete reinforcement (8mm and above)	72131090 72142090	(a) High strength deformed steel bars and wires of size below 16 mm (b) for other products excluding (a) above	31 st March, 2013 12 th September, 2012
6.	648	Cold rolled non-oriented electrical steel sheet and strip-fully processed type (CRNO)	72251920 72261920	All products	12 th September, 2012
7.	3024	Grain oriented electrical steel sheet and strip (CRGO)	72251100 72261100	All products	31 st March, 2013
8.	15391	Cold rolled non-oriented electrical steel sheet and strip-semi-processed type (CRNO)	72251920 72261920 72091720 72091730 72091790 72092720 72092730 72092790	All products	12 th September, 2012
9.	2062	Hot rolled medium and high tensile structural steel (excluding bars and rods of diameter or thickness less than 6 mm and structural below 50 mm x 50 mm x 6 mm)	72139190 72139990 72149990 72161000 72162100 72162200 72163100 72163200 72163300 72164000 72165000 72111300 72111410 72111420 72111430 72111440 72111450 72111460	(a) Flat Rolled products (sheets/strips/coils) less than 6 mm thickness; (b) Flat bars and rounds/squares/hexagons/octagon bars; (c) Plates of thickness more than 80 mm and weight more than 12 tonne in Ultrasonic Tested condition; (d) Plates of thickness less than 16 mm but width more than 4000 mm	31 st March, 2013

	(1)	(2)	(3)	(4)	
			72111490	(e) for other products excluding (a),(b), (c) and (d) above	12 th September, 2012
			72119012		
			72119090		
			72139190		
			72139990		
			72149190		
			72149990		
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			72083930		
			72083940		
			72083990		
			72085110		
			72085120		
			72085130		
			72085140		
			72085190		

Source : The Gazette of India, Extraordinary, Part II- Sec. 3(ii), dated 11.9.2012

2) Ministry of Steel, S.O.2510(E).- In exercise of the powers conferred by section 14 of the Bureau of Indian Standards Act, 1986 (63 of 1986), the Central Government hereby makes the following further amendments in the Steel and Steel Products (Quality Control) Second Order, 2012 of the Government of India, Ministry of Steel,

published in Part II, Section 3, Sub-section (ii) of the Gazette of India, Extraordinary, vide number S.O.415(E), dated 12th March, 2012, namely:-

1. (1) This order may be called The Steel and Steel products (Quality Control) Second (Second Amendment) Order, 2012.

(2) Save as otherwise provided, this order shall come into force from the date of publication of this order in the official Gazette.

2. In the Steel and Steel Products (Quality Control) Second Order, 2012, in the Schedule, in column (4),-

(i) against serial number 6, for the entries, the following shall be substituted, namely :-

Date of coming into force of the product in the standard to the extent given below	
(A)Product	(B)With effect from
(a) Cold Rolled Non-Oriented (CRNO) electrical steel sheets and strips with Watt loss not exceeding by 5.3 Watt/kg (at 1.5 Tesla/50 Hz)	31 st March, 2013;
(b) for other products excluding (a) above	12 th September, 2012;"

(ii) against serial number 9, for the entries, the following shall be substituted, namely:

Date of coming into force of the product in the standard to the extent given below	
(A)Product	(B) With effect from
(a) Flat Rolled products (sheets or strips or coils) less than 6 mm thickness;	31 st March, 2013
(b) Flat bars and rounds or squares or hexagons or octagon bars;	
(c) Plates of thickness more than 80 mm and weight more than 12 tonnes in ultrasonic tested condition;	
(d) Plates of thickness less than 16 mm but width more than 4000 mm;	
(e) Universal Beam structural steel of size (depth) greater than 610 mm up to and including size 1016 mm;	
(f) Universal Column structural steel of size greater than 305 mm up to and including size 356 mm;	
(g) For other products excluding (a), (b), (c), (d), (e) and (f) above.	12 th September, 2012

Source : The Gazette of India, Extraordinary, Part II Sec.3(ii), dated 17.10.2012

3. Ministry of Mines, Notification, F. No.11/6/2012-M.I.- The Geological Survey of India (GSI) has been designated as the Nodal Agency for carrying out landslide studies. The National Disaster Management Guidelines of National Disaster Management Authority (NDMA); Management of Landslides and Snow Avalanches (2009) has recommended that a high level scientific and Technical Advisory Committee (TAC) chaired by the Secretary, Ministry of Mines (MoM), need to be constituted by the nodal Ministry on Landslides (MoM) in consultation with the NDMA to serve as a think tank to nurse the landslide sector with cutting edge science and technology, fresh ideas and stimulus.

2. The proposed High Level TAC for Landslide Mitigation and Management in India will act as an Apex Technical Body of the Government of India (GoI), NDMA and the nodal Ministry/Agency (MoM/GSI) in all the matter related to the landslide mitigation and management of the country starting from advising/recommending suitable techniques of landslide mapping, investigation, mitigation designing and planning, help in designing protective structures, to control, monitoring etc. as a coherent measure for the holistic and sustainable development of our environment to all the related Central and State Government Agencies and other stakeholders working in the field of landslides, as and when required.

3. The TAC will also suitably address the issues related to the research and development, human resource planning and capacity development programmes related to landslide hazards by providing relevant technical support and guidance to various human resource development and training functions.

4. The overall aim of TAC will be to switch over from piecemeal remedial measures and advising role to complete circle of control and management of landslides in India.

5. Composition of the committee is as under :

1. Secretary, Ministry of Mines	Chairman
2. Secretary, Department of Science and Technology	Ex-officio Member
3. Secretary, Ministry of Environment & Forests	Ex-officio Member
4. Secretary, Ministry of Earth Sciences	Ex-officio Member
5. Director General, Geological Survey of India	Ex-officio Member
6. Concerned Jt. Secretary, National Disaster Management Authority	Ex-officio Member
7. Concerned Additional Secretary/Joint Secretary	Ex-officio Member
8. Executive Director, National Institute of Disaster Management	Ex-officio Member
9. Director Technical, Ministry of Mines	Ex-officio Member
10. An officer of the level of Dy.D.G [(nominated by Ministry of Mines/DG, GSI)]	Member Secretary

Representatives of the following Ministry/Organisations not below the rank of the Director.

1. Director, LHIM Division, Geological Survey of India	Member
2. Central Road Research Institute (CRRRI)	Member
3. Central Building Research Institute (CBRI)	Member
4. Wadia Institute of Himalayan Geology (WIHG)	Member
5. National Institute of Rock Mechanics (NIRM)	Member
6. National Remote Sensing Centre (NRSC)	Member
7. Defence Training Research Laboratory (DTRL)	Member
8. Snow and Avalanche Study Establishment (SASE)	Member
9. Border Road Organisation (BRO)	Member
10. Ministry of Road Transport and Highways	Member
11. National Hydroelectric Power Corporation (NHPC)	Member
12. Indian Institute of Remote Sensing (IIRS)	Member
13. Central Water Commission (CWC)	Member
14. Central Public Works Department (CPWD)/Public Works Department (PWD) of concerned States	Member
15. Government of Uttarakhand	Member
16. Government of West Bengal	Member
17. Government of Mizoram	Member

18. Government of Jammu & Kashmir	Member
19. Government of Tamil Nadu	Member
20. Government of Sikkim	Member

In addition to the above, representative from the concerned State Governments will be co-opted while taking up the State Specific issues.

6. The Terms of Reference (TOR) of the TAC are as follows:

- a. To help all agencies concerned including the nodal agency (GSI) by advising and suggesting the suitable methods of landslide zoning and forecasting of landslide susceptibility, hazard and risk, suggesting innovation in scale of landslide zoning.
- b. To help all agencies concerned including the nodal agency (GSI) by suggesting suitable methods of zoning and forecasting of earthquake induced landslides.
- c. To help SASE and BRO by advising and suggesting suitable methods of zoning and forecasting of avalanches. Will also guide BRO with suggestions on innovative techniques of controlling already identified snow avalanches.
- d. To help all agencies concerned including the nodal agency (GSI) by suggesting and modifying prioritization of areas to be taken up for landslide zonation studies at National/Regional scale (1:10,00,000 to 1:100,000) macro (1:50,000 to 1:25,000) and meso (1:5,000 to 1:10,000) scales.
- e. To help all agencies concerned including the nodal agency (GSI) by suggesting suitable deterministic methods of modeling site-specific landslides including geotechnical testing, hydrological modeling and stability analysis, etc. of the potentially-failing slopes.
- f. To help all agencies concerned including the nodal agency (GSI) through a method of supervision and monitoring of the implemented protection measures for conspicuous landslides of the country and if required, advising the implementing agencies for adopting better remediation practices, as desired by the State Disaster Management Authority (SDMA).
- g. To help Central and State Governments in framing land use regulations, bye-laws with special focus on housing human settlements, infrastructure projects (road and railway connectivity, hydroelectric projects, etc.).
- h. To help all agencies concerned including the nodal agency (GSI) by suggesting and advising the state of the art monitoring and early warning techniques of landslides by facilitating formulation of suitable guidelines, manuals on developing early warning system and by encouraging/promoting ground-level landslide monitoring and early warning projects through national and international collaborations.
- i. To help Central and State Governments in evolving suitable techno-legal framework for making the licensing of professionals mandatory in dealing with landslide related hazards.
- j. To help NDMA and other concerned agency of the Government of India in evolving suitable techno-financial framework for making national risk avoidance, risk sharing and risk transfer strategies on landslide related hazards, like the same followed in case of other disasters by using micro-level initiatives in some states following the best-available global practices in consultation with financial institution, insurance companies and re-insurance agencies.

- k. To help the concerned Central and State agencies, NGOs in evolving effective disaster management practices for landslide preparedness amongst communities and promoting several landslide awareness programmes.
- l. To help all the concerned Central and State agencies in formulating and guiding Capacity Development Programmes including education, training and documentation for all stakeholders engaged in promoting landslide awareness and education programmes and also for the professionals, scientists, engineers engaged in landslide mitigation and management programmes.
- m. To help, guide and promote all agencies concerned including the nodal agency (GSI) and NDMA for taking up state-of-the-art R&D programmes on landslide related hazard with national and international collaborations.
- n. To help, guide and promote the nodal Ministry/Agency (MoM/GSI) and NDMA in constituting an autonomous national research institute on landslides under the MoM.

7. The constitution and implementation of the said high-powered Technical Body (TAC) is a step forward towards a coherent integration of the above landslide management practices into a sustainable development planning of the country for effectively tackling the landslide related hazards.

8. The committee will meet as often as may be necessary at least once in six months.

Source: The Gazette of India, Extraordinary part I-Sec.I dated 20.9.2012

4. Ministry of Finance, S.O. 2342(E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-2, the following Table shall be substituted namely:-

S. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs, dated 17.03.2012 is availed.	573 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed.	1102.50 per kilogram"

Source : The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 28.9.2012.

5. Ministry of Commerce & Industry, Department of Commerce, Public Notice, F.No.01/91/162/3/AM10/Export Cell.- In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, the Director General of Foreign Trade hereby makes the following corrections / amendments in HBPv1 (including Appendices and ANFs) with immediate effect:

- (i) Serial Number 4 (Application Fee Details) in the existing ANF 2 D (Application Form for Export Licence for Restricted Items) is deleted.
 - (ii) Guidelines for applicants in the existing ANF 2 D are amended.
2. The existing ANF-2D as appearing in the HBP Vol.I shall be replaced as per specimen of revised ANF-2D annexed with this Public Notice.

3. Effect of this Public Notice:-

- (i) Serial Number 4 (Application Fee Details) in the ANF 2 D has been deleted as no fee is prescribed for export licence.
- (ii) Guidelines for applicants in the ANF 2 D have been amended to make it more user friendly.

ANF 2 D

Application Form for Export Licence for Restricted Items
[Please see guidelines (at the end) before filling the application]

1. IEC Number

2. Applicant Details

- i. Name
- ii. Address

3. Application Submission Details (in case of electronically submitted applications)

- i. ECOM Reference Number
- ii. Date of Submission on Server
- iii. Submitted to which Regional Authority
- iv. File Number
- v. Date of Issue

4. Total FOB value applied for

- i. In Rupees
- ii. In Foreign Currency

5. Details of items applied for export

S. No.	Description	ITC(HS) Code	Quantity	FOB Value (Rs)

6. Details of exports made of the item applied for in the preceding 3 licensing years

S.No.	Year	Export Licence Details				Quantity Exported	FOB Value of Exports (US \$)	Export Destination
		No	Date	Qty	Value (US \$)			

7. Purpose of Export (Please tick)

- i. Trade
- ii. Personal
- iii. Sample

8. Foreign Buyer Details

- i. Name
- ii. Address

9. Shipment Details

- i. Port of Loading
- ii. Port of Discharge
- iii. Country of Export

10. In case of export of samples/ exhibits/ gifts/, please furnish

- i. Ceiling Limit
- ii. How much in excess of Ceiling Limit
- iii. Justification for Excess

11. In case of export by post, please furnish details of postal authorities where the parcel will be placed

12. In case of export of seeds, please furnish

- i. Details of seed/planting material proposed for export.
- ii. Whether seed/planting material proposed to be exported is of notified variety : Yes/No.
- iii. Whether seed/planting material proposed to be exported has been produced under custom production arrangement ? if yes, enclose details /agreement entered into with buyer.
- iv. Whether variety of Seed/planting material proposed to be exported is used in India: Yes/ No.
- v. Places where the variety proposed to be exported is grown.

13. Any other relevant information

DECLARATION/UNDERTAKING

- 1. I/We hereby declare that the particulars and the statements made in this application are true and correct to the best of my / our knowledge and belief and nothing has been concealed or held there from.
- 2. I / We fully understand that any information furnished in the application if found incorrect or false will render me / us liable for any penal action or other consequences as may be prescribed in law or otherwise warranted.
- 3. I / We undertake to abide by the provisions of the FT (D & R) Act, 1992, the Rules and Orders framed there under, FTP, HBP v 1 and HBP v2 and ITC (HS)
- 4. a. I / We hereby certify that the firm / company for whom the application has been made has not been penalized under Customs Act, Excise Act, FT (D & R) Act 1992 and FERA / FEMA.
b. I / We hereby certify that none of the Proprietor / Partner(s) / Director(s) / Karta / Trustee of firm / company, as the case may be, is / are a Proprietor / Partner(s) / Director(s) / Karta / Trustee in any other firm / Company which has come to adverse notice of DGFT.
c. I / We hereby certify that the Proprietor / Partner(s) / Director(s) / Karta / Trustee, as the case may be, of the firm/company is / are not associated as Proprietor / Partner(s) / Director(s) / Karta / Trustee in any other firm / company which is in the caution list of RBI.
d. I / We hereby certify that neither the Registered Office / Head Office of the firm/company nor any of its Branch Office(s) / Unit(s) / Division(s) has been declared a defaulter and has otherwise been made ineligible for undertaking import / export under any of the provisions of the Policy.

5. I / We hereby declare that I / We have not obtained nor applied for such benefits (including issuance of an Importer Exporter Code Number) in the name of our Registered / Head Office or any of our Branch(s) / Unit(s) / Division(s) to any other Regional Authority.
6. I / We hereby declare that I/we have perused the list of SCOMET items as contained in the Appendix 3 to the Schedule 2 of the ITC (HS) and that the item(s) exported / proposed to be exported does not fall within this list and that I / We agree to abide by the provisions of FTP for export of SCOMET items contained in the FTP, Schedule 2 of ITC (HS) and the HBP v1, irrespective of the scheme under which the item is exported / proposed to be exported.
7. I / We solemnly declare that I / We have applied for / obtained a RCMC to the EPC which pertains to our main line of business. In case we have applied to any other council, the application has been made within the purview of the provisions of Para 2.63 of the HBP v1.
8. I hereby certify that I am authorised to verify and sign this declaration as per Paragraph 9.9 of the Policy.

Signature of the Applicant Place

Name Date

Designation

Official Address

Telephone

Residential Address

Email Address

GUIDELINES FOR APPLICANTS

Please see paragraph 2.49 of HBP v1

1. Two hard copies of the application (ANF 2 D) must be submitted.
2. In case application is submitted electronically, no hard copy of ANF1 is required to be submitted. Where applications are not submitted electronically, hard copy of ANF1 needs to be submitted along with ANF 2 D.
3. Each page of the application has to be signed by the applicant.
4. Hard copies of Applications (ANF 1 and ANF 2 D) may be submitted to Export Cell, Directorate General of Foreign Trade (HQ), H-wing, Maulana Azad Road, New Delhi-110011.
5. Only relevant portions of Application need to be filled in.
6. Application must accompany the copy of IEC. Copy of RCMC, if any may be submitted

Source: The Gazette of India, Extraordinary, Part I Sec.I, dated 28.9.2012

6. Ministry of Finance, (Department of Revenue), (Central Board of Excise and Customs), Notification, S.O.2360 (E). – In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in super session of the notification of the Government of India in the Ministry of Finance (Department of Revenue) **No.84/2012-CUSTOMS (N.T.), dated the 20th September, 2012** vide number S.O.2262(E), dated the 20th September, 2012, except as respects things done or omitted to be done before such super session, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or vice versa shall, with effect from 5th October, 2012 be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and exported goods.

SCHEDULE-I

S.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian Rupees	
		(For Imported Goods)	(For Exported Goods)
(1)	(2)	(3)	(4)
1.	Australian Dollar	54.30	52.80
2.	Bahrain Dinar	143.05	134.85
3.	Canadian Dollar	53.90	52.55
4.	Danish Kroner	9.20	8.90
5.	Euro	68.45	66.65
6.	Hong Kong Dollar	6.80	6.70
7.	Kenya Shilling	63.50	59.55
8.	Kuwait Dinar	192.00	180.60
9.	New Zealand Dollar	43.75	42.40
10.	Norwegian Kroner	9.30	9.00
11.	Pound Sterling	85.45	83.40
12.	Singapore Dollar	43.05	41.90
13.	South African Rand	6.45	6.05
14.	Saudi Arabian Riyal	14.40	13.55
15.	Swedish Kroner	8.00	7.75
16.	Swiss Franc	56.65	55.05
17.	UAE Dirham	14.70	13.85
18.	US Dollar	52.85	51.85

SCHEDULE-II

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian Rupees	
		(For Imported Goods)	(For Exported Goods)
1.	Japanese Yen	67.95	66.00

Source : The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 4.10.2012.

7. Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade, PUBLIC NOTICE, F.No.01/61/180/00142/AM13/PC-3 (e-BRC).- In exercise of powers conferred under paragraph 2.4 of the Foreign Trade Policy, 2009-2014, the Director General of Foreign Trade hereby amends the Handbook of Procedures Vol.1 (Appendices and Aayat Niryat Forms) 2009-2014.

2. The following additional declarations/undertaking will be furnished by applicants filing applications in ANF 3C and ANF 4G at the end of the existing declarations :
 - I/We hereby declare that Freight, Insurance and Commission values as mentioned in the application are based on actual transaction values.
 - For the purpose of calculating entitlement, commission amount has been included as per actual value or 12.5% of net FOB value realised whichever is less.
3. The following additional declarations/undertaking will be furnished by applicants filing applications in ANF 4D, ANF 4F, ANF 4H and ANF 5B at the end of the existing declarations: :

- I/We hereby declare that Freight, Insurance and Commission values as mentioned in the application are based on actual transaction values.-

- For the purpose of calculating entitlement, commission amount has been excluded.

4. Effect of this Public Notice: In order to integrate e-BRC with the schemes under Foreign Trade Policy , the above declarations are being mandated .

Source : *The Gazette of India, Extraordinary, Part I-Sec. I, dated 9.10.2012.*

8. Ministry of Commerce & Industry, Department of Commerce, Notification, S.O. 2423(E)- In exercise of powers conferred under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 as amended, read with paragraph 2.1 of the Foreign Trade Policy, 2009-14, the Central Government hereby makes the following amendments in Schedule-I (Imports) to the ITC (HS) Classifications of Export and Import Items:-

2. Import Licensing Note No. (5) is inserted at the end of Chapter 25, to read as :

“5. Facility for Indian companies who have invested in Mining abroad.

This will be subject to conditions laid down as under:

5(a): Eligibility;

- i) Mining company where such investment is made must be a 100% subsidiary of the Indian Company.
- ii) Minimum investment should be Rupees 10 crores as on 31.3.2012 and is subsisting.
- iii) Such investment should only be in plant and machinery. No plant and machinery on leased basis will be considered.
- iv) The overseas mining company should be operational and have the operating license in its own name.

(b) Quantity to be permitted;

- i) Only marble blocks produced from its own quarries overseas shall be allowed for import.
- ii) The total annual import quantity will be limited to 1 lakh MT .
- iii) The quantity to be allocated for import per applicant shall not exceed 30,000 MT or the total quantity of marble mined and sold from its overseas mines in the previous financial year, whichever is less. (Reference to financial year would be Indian financial year i.e 1st April 2011-31st March 2012)
- iv) If the quantity to be imported by the eligible applicants exceeds 1 lakh MT, then allocation will be on a pro rata basis. Distribution of pro rata allocation will be on the basis of total sale of quantity produced in the previous financial year from its mines overseas. Quantum of sale shall be certified by an independent Chartered Accountant and will be accompanied with annual accounts of foreign mines (subsidiary of Indian Company).

(c) Filing of Application;

Applications should reach DGFT(HQ) office at Udyog Bhavan, New Delhi before 5 p.m. on 25th October 2012.

(d) Floor Price;

Such imports shall be subject to a floor price of US\$ 325 per Metric Tonne (MT).

(e) ITC HS Codes;

Such imports shall be permissible under ITC HS Codes 25151100 and 25151210.

(f) Actual User Condition;

All authorisations shall be subject to actual user condition.

(g) Monthly Return;

Authorisation holders shall file monthly returns regarding imports made by them, to the concerned Regional Authority of DGFT by the 15th of each succeeding month in which authorisation is obtained (for example if a authorisation is obtained on 13th September, the authorisation holder will file monthly return by 15th of October and for each month thereafter). This is a mandatory requirement.

(h) Validity of Import authorisation;

Authorisation for Import of marble will have a validity of 12 months from date of issue."

3. Effect of this notification:

Import Policy for allocation of quota for import of Rough Marble Blocks by Indian companies investing abroad in marble mining has been notified with an annual quota of 1 lakh MT.

Source: The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 9.10.2012

9. Ministry of Finance, (Department of Revenue), (Central Board of Excise and Customs), Notification, S.O. 2499(E).— In exercise of the powers conferred by sub-section (2) of Section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-2, the following Table shall be substituted namely:-

S. No.	Chapter/ heading/ sub- heading/tariff item	Description of goods	Tariff value (US \$)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs, dated 17.03.2012 is availed	574.20 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial numbers 322 and 324 of the Notification No. 12/2012-Customs, dated 17.03.2012 is availed	1097.30 per kilogram "

Source: The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 15.10.2012.

10. Ministry of Commerce & Industry, Department of Commerce, (Directorate General of Foreign Trade), Public Notice, File No. 01/81/162/375/AM10/DES-II - In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14 and Paragraph 1.1 of the Handbook of Procedures (Vol.1), the Directorate General of Foreign Trade hereby notifies a new SION bearing number C- 2049 in respect of the export product "Copper Based Pre-alloyed Powder R-800". The new entry would be as follows:-

Export Item	Quantity	Import Items	Quantity allowed
Copper Based Pre-alloyed Powder R-800	100 kg.	1. Copper Cathode / Ingot or Copper Scrap	75.07 kg 76.54 kg
		2. Lead Ingot or Lead Scrap	20.81 kg 21.22 kg
		3. Tin Ingot or Tin Scrap	2.04 kg 2.08 kg
		4. Nickel Ingot or Nickel Scrap	4.08 kg 4.16 kg

2. Effect of Public Notice:-

A new SION for the export product "Copper Based Pre-alloyed Powder R-800" in the Engineering Product Group is being notified.

Source: *The Gazette of India, Extraordinary, Part I- Sec.1, dated 18.10.2012*

11) **Ministry of Commerce & Industry, Department of Commerce, Notification, S.O. 2314(E).** - In exercise of powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with paragraph 2.1 of the Foreign Trade Policy – 2009-14, the Central Government hereby amends Schedule – I (Imports) of the ITC (HS) Classifications of Export and Import Items, 2009-14 as under:

2. Import Licensing Note (4) at the end of Chapter 25 and Import Licensing Note at serial no. (2) of Chapter 68 of ITC (HS) Classifications of Export and Import Items reads as under :

"Import of items under ITC (HS) Codes 25151100, 25151210, 25151220, 25151290, 68021000, 68022110, 68022120, 68022190, 68022200, 68029100, 68029200 from Sri Lanka under the India-Sri Lanka Free Trade Agreement (ISFTA) only through the Port of Kolkata".

This Import Licensing Note stands deleted with immediate effect.

3. Import of these items shall, however, be subject to all the conditions applicable on imports under ISFTA and the imports can be made through any EDI Port.

Effect: Importer (s) shall be able to import the items under aforementioned ITC (HS) codes under the India-Sri Lanka Free Trade Agreement (ISFTA) from all EDI Ports.

Source : *The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 26.9.2012.*

12. **Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade, Notification, File No. 01/53/162/293/Marble/M-3/AM13/IC.** - In terms of Notification No.12 (RE-2012)/2009-2014 dated 22.8.2012 the allocation of 6 lakh MTs of Rough Marble and Travertine Blocks for import, is attached as Annexure to this Trade Notice.

2. Issue of import license by RAs of DGFT would commence from 17th September 2012 & end on 20th September 2012. In case any applicant/firm is found to have submitted false or erroneous information or have made any misdeclaration / misrepresentation, such applicant / firm, (a) shall forfeit the allocation made in this Trade Notice, (b) shall be debarred from allocation of marble in future and (c) shall be liable for penal action under the provisions of Foreign Trade (D&R) Act, 1992, as amended.
3. License holders shall file monthly returns regarding imports made by them, to the concerned Regional Authority of DGFT by the 15th of each succeeding month in which license is obtained (for example if a

license is obtained on 13th September, the license holder will file monthly return for imports made in September by 15th of October and for each month thereafter by the 15th day). This is a mandatory requirement as per para 3(C)(l)(c) of the said notification no.12 dated 22.8.2012.

Annexure: List of 449 applicants with, quantity allocated and file number of Regional Authority (14 Pages)

13. Ministry of Commerce & Industry, Department of Commerce, Public Notice, F.No. 01/ 94/ 180/ 238/AM11/PC-4, In exercise of powers conferred under Para 2.4 of the Foreign Trade Policy, 2009-2014, the Director General of Foreign Trade hereby makes the following amendments in Note for Guidance attached to the Appendix 25B of Handbook of Procedures (Vol.1) (Appendices and Aayat Niryat Forms) 2009-2014:

2. The existing Note.1 for Guidance in the matter of executing BG/LUT shall be substituted by the following:

"The Bank Guarantee / Legal Agreement is to be executed by the surety Bank (Guarantor)/ importer/exporter (party) on a non-judicial stamp paper an amount as may be prescribed by the concerned State Government under the Indian Stamp Act, 1899 or State Act, as the case may be."

3. In the phrase "B.G./LUT" appearing in Notes 4 & 5 of the Note for Guidance, "BG/" shall be deleted & only "LUT" would remain.

Effect of this Public Notice:

Bank Guarantee (B.G.) would require execution by the surety Bank (Guarantor) and LUT by Exporter/Importer.

Source: The Gazette of India, Extraordinary, Part I- Sec.1, dated 12.11.2012.

14. Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade, Public Notice, File No. 01/81/162/246/AM13/DES-II, In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14 and Paragraph 1.1 of the Handbook of Procedures (Vol.1), the Directorate General of Foreign Trade hereby notifies the following in Handbook of Procedure Vol.II (SION Book):-

2. The existing entry at SION C-469 is as follows:-

SION	Export Product	Quantity	Import Items	Quantity
C-469	Cold Rolled Galvanised Colour Coated Non Alloy Steel Sheets/ hoops & Strips/ Wide Coils having Zinc coating of 180 gm per sq m @40 sq m per litre Primer, 20 sq m per litre as Top Coat and 25 sq m Per litre. As Backer given in Engineering Table	1000 kg	1. Non Alloy Hot Rolled Steel Sheets/ Strips/ Wide Coils	1130 kg
			2. Rolling Mill Rolls	1.25 kg
			3. Rolling Oil	0.35 kg
			4. Pickling Oil	0.45 kg
			5. Steel Strapping	2.0 kg
			6. VCI Rusto - Paper	5.0 sq m
			7. Zinc	*
			8. Guard Film	*
			9. Paints (I)	*
			(a) Primer	
(b) Tap Coat				
(c) Backer				

* Note: While the quantity of item nos. 1 to 6 will remain the same for all thickness of the product, the quantity of items 7 to 9 will be as per the Engineering Table 1 given at end of this product group.

3. SION at S. No. C-469 is now modified as under:-

SION (1)	Export Product (2)	Quantity (3)	(4)	Import Items (5)	Quantity (6)
C-469	Cold Rolled Galvanised Colour Coated Non Alloy Steel Sheets/Hoops & Strips/Wide Coils (Plain/Corrugated) having coating thickness of Primer 4-10 Micron, Backer 4-14 Micron and Top Coat 12-28 Micron	1000 kg	1.	(a) Cold Rolled Galvanised Non Alloy Steel Strips/Wide Coils Or	(a) 1.01 x Cold Rolled Galvanised Steel content as specified in Engg. Table-1 A Or
				(b) Cold Rolled Full Hard/Close Annealed Non Alloy Steel Strips/ Wide Coils Or	(b) 1.05 x Cold Rolled Steel content as specified in Engg. Table-1 B Or
				(c) Hot Rolled Non Alloy Steel Strips/Wide Coils	(c) 1.118 x Cold Rolled Steel content as specified in Engg. Table-1 B
			2.	Paint-Primer (litre)	As per Engg. Table-1A
			3.	Paint-Back Coat (litre)	As per Engg. Table-1A
			4.	Paint-Top Coat (litre)	As per Engg. Table-1A
			5.	Zinc Slab/ Ingots (kg)	1.1 x Zinc content as specified in Engg. Table-1C
			6.	Rolling Mill Rolls	1.25 kg
			7.	Rolling Oil	0.35 kg
			8.	Pickling Oil	0.45 kg
			9.	Steel Strappings/ Galvanised Plain Sheets for packing	As per packing Policy
			10.	VCI Rusto Paper	5.0 sq m
11.	Guard Film (kg.)	As per Engg. Table-1A			
12.	Applicator Rolls	0.13 kg			

Note:

- (i) Import Item No. 5 will be allowed, only when import item no. 1(b) or 1(c) is imported.
- (ii) Import Item Nos. 6 & 7 will be allowed, only when import item no. 1(c) is imported
- (iii) Import Item No. 8 will be allowed, only when import item no. 1(b) or 1(c) is imported

4. New SION at Serial number C-2054 shall be as under:-

SION (1)	Export Product (2)	Quantity (3)	(4)	Import Items (5)	Quantity (6)
C-2054	Cold Rolled Un-Galvanised Colour Coated Non Alloy Steel Sheets/Hoops & Strips/Wide Coils having coating thickness of Primer 4-10 Micron, Backer 4-14 Micron and Top Coat 12-28 Micron	1000 kg	1	(a) Cold Rolled Full Hard/ Close Annealed Non Alloy Steel Strips/ Wide Coils Or	(a) 1.01 x Cold Rolled Steel content as specified in Engg. Table-1D Or
				(b) Hot Rolled Non Alloy Steel Strips/ Wide Coils	(b) 1.10 x Cold Rolled Steel content as specified in Engg. Table-1D
			2.	Paint-Primer (litre)	As per Engg. Table-1D
			3.	Paint-Back Coat (litre)	As per Engg. Table-1D
			4.	Paint-Top Coat (litre)	As per Engg. Table-1D
5.	Rolling Mill Rolls	1.25 kg			

SION	Export Product	Quantity		Import Items	Quantity
(1)	(2)	(3)	(4)	(5)	(6)
			6.	Rolling Oil	0.35 kg
			7.	Pickling Oil	0.45 kg
			8.	Steel Strappings/ Galvanised Plain Sheets for Packing	As per Packing Policy
			9.	VCI Rusto Paper	5.0 sq m
			10.	Guard Film (kg)	As per Engg. Table-1D
			11.	Applicator Rolls	0.13 kg

Note: (i) Import Item Nos. 5 & 6 will be allowed, only when import item no. 1(b) is imported

5. New SION at Serial number C-2055 shall be as under:-

SION	Export Product	Quantity		Import Items	Quantity
(1)	(2)	(3)	(4)	(5)	(6)
C-2055	Cold Rolled Zinc (43.5%) & Aluminium Silicon (56.5%) Alloy Coated Colour Coated Non Alloy Steel Sheets/Strips/ Wide Coils (Plain/Corrugated) having coating thickness of Primer 4-10 Micron, Backer 4-14 Micron and Top Coat 12-28 Micron	1000 kg	1	(a) Cold Rolled Zinc (43.5%) & Aluminium-Silicon (56.5%) Alloy Coated Non Alloy Steel Strips/ Wide Coils Or (b) Cold Rolled Non Alloy Steel Strips/Wide Coils Or (c) Hot Rolled Non Alloy Steel Strips/ Wide Coils.	(a) 1.01x Cold Rolled Zinc (43.5%) & Aluminium-Silicon (56.5%) Alloy Coated Steel content as specified in Engg. Table-1E Or b) 1.05 x Cold Rolled Steel content as specified in Engg. Table-1F Or (c) 1.118 x Cold Rolled Steel content as specified in Engg. Table-1F
			2.	Paint-Primer (litre)	As per Engg. Table-1E
			3.	Paint-Back Coat (litre)	As per Engg. Table-1E
			4.	Paint-Top Coat (litre)	As per Engg. Table-1E
			5.	Zinc Slab/ Ingots (kg.)	1.15 x 0.435 x Zn-Al-Si content as specified in Engg. Table-1G
			6.	Aluminium Silicon Alloy Slab/Ingots (kg)	1.15 x 0.565 x Zn-Al-Si content as specified in Engg. Table-1G
			7.	Rolling Mill Rolls	1.25 kg
			8.	Rolling Oil	0.35 kg
			9.	Pickling Oil	0.45 kg
			10.	Steel Strappings/ Galvanised Plain Sheets for packing	As per Packing Policy
			11.	VCI Rusto Paper	5.0 sq m
			12.	Guard Film (kg)	As Per Engg. Table-1E
			13.	Applicator Rolls	0.13 kg

Note:

- i) Import Item Nos. 5 & 6 will be allowed, only when import item no. 1(b) or 1(c) is imported
- ii) Import Item Nos. 7 & 8 will be allowed, only when import item no. 1(c) is imported

- iii) Import Item No. 9 will be allowed, only when import item no.1 (b) or 1(c) is imported.
6. The existing Engineering Table 1 in Handbook of Procedures Vol.II is hereby deleted and is substituted by Engineering Tables 1A, 1B, 1C, 1D, 1E, 1F and 1G which are annexed to this Public Notice.
7. Effect of Public Notice:-
- i) Existing SION C-469 has been modified. Non Alloy Cold Rolled Steel is added as an input. Based upon the thickness of the export product, quantity of corresponding inputs has been prepared in tabular form as mentioned in Engineering Tables 1A, 1B and 1C.
- ii) Two new SIONs are notified for export products "Cold Rolled colour coated non alloy steel sheets" and "Cold Rolled Zinc & Aluminium Silicon Alloy Coated Colour Coated Non Alloy Steel Sheets".
- iii) Engineering Table 1 is substituted by comprehensive Engineering Tables 1A, 1B, 1C, 1D, 1E, 1F and 1G which denote the export product and corresponding inputs.

Source : The Gazette of India, Extraordinary, Part I- Sec.1, dated 30.11.2012.

15. Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade, Public Notice, File No. 01/81/162/00052/AM13/DES-II, In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14 and Paragraph 1.1 of the Handbook of Procedures (Vol.1), the Directorate General of Foreign Trade hereby notifies a new SION bearing number C- 2056 in respect of the export product "Lead Free Powder CuSn8Ni1". The new entry would be as under:-

Export Item	Quantity	Import Items	Quantity allowed
Lead Free Powder CuSn8Ni1	100 kg	1. Copper Ingot	92.82kg
		Or	
		Copper Scrap	94.64kg
		2. Tin Ingot	8.13 kg
		Or	8.29 kg
		Tin Scrap	
		3. Nickel Ingot	1.05 kg
		Or	
		Nickel Scrap	1.07 kg

2. Effect of Public Notice:-

There was no SION earlier for the export product "Lead Free Powder CuSn8Ni1" in the Engineering Product Group. This has been notified now.

Source: The Gazette of India, Extraordinary, Part I- Sec.1, dated 6.12.2012.

16. Ministry of Finance, Department of Revenue (Central Board of Excise and Customs), Notification, S.O. 240(E).— In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-2, the following Table shall be substituted namely:-

S. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial numbers 321 and 323 of the Notification No. 12/2012-Customs, dated 17.03.2012 is availed	542 per 10 grams(i.e. no change)
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs, dated 17.03.2012 is availed	999 per kilogram(i.e. no change)

Source : The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 23.1.2013.

17. Ministry of Finance, Department of Revenue (Central Board of Excise and Customs), Notification, S. O.306 (E). – In exercise of the powers conferred by Section 14 of the Customs Act, 1962 (52 of 1962), the Board hereby makes the following amendments in the Notification of the Government of India, Ministry of Finance (Department of Revenue) No. 5/2013-CUSTOMS (N. T.), dated the 17th January, 2013 S.O. 190 (E), namely:-

In the SCHEDULE-II of the said Notification for Serial No. 1 and the entries relating thereto, the following shall be substituted, namely:-

SCHEDULE-II

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian Rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Exported Goods)
1.	Japanese Yen	59.60	58.00

The rates will be effective from 31st January, 2013.

Source : The Gazette of India, Extraordinary, Part II- Sec.3(ii), dated 31.1.2013.

18. Ministry of Finance, (Department of Revenue), (Customs), Notification G.S.R.35 (E). - In exercise of the powers conferred by sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Customs, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 185(E), dated the 17th March, 2012, namely:-

In the said notification, in the Table,-

- (i) against S. No. 116, for the entry in column (5), the entry "4%" shall be substituted;
- (ii) against S. No. 318, for the entry in column (5), the entry "4%" shall be substituted;

- (iii) in S. No. 321, against item (i), for the entry in column (4), the entry "6%" shall be substituted;
 (iv) against S. No. 323, for the entry in column (4), the entry "6%" shall be substituted;
 (v) against S. No. 328, for the entry in column (4), the entry "6%" shall be substituted;

Source : The Gazette of India, Extraordinary, Part II Sec.3(i), dated 21.1.2013.

19. Ministry of Finance, (Department of Revenue), (Central Excise), Notification G.S.R. 36(E). - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Central Excise, dated the 17th March, 2012 which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 163(E) dated the 17th March, 2012, namely:

In the said notification, in the Table,-

- i. for S. No. 189 and the entries relating thereto, the following shall be substituted-

"189	71	Gold bars, other than tola bars, bearing manufacturer's engraved serial number and weight expressed in metric units manufactured in a factory starting from the stage of	
		(i) (a) Gold ore or concentrate;	5%
		(b) Gold dore bar; or	
		(ii) Silver dore bar	3% "
		Explanation. -For the purposes of this entry, 'gold dore bar' shall mean dore bars having gold content not exceeding 95% and 'silver dore bar' shall mean dore bars having silver content not exceeding 95% accompanied by an assay certificate issued by the mining company, giving details of composition	

- ii. in S. No. 191, against item (i), for the entry in column (4), the entry "5%" shall be substituted.

iii.

Source : The Gazette of India, Extraordinary, Part II Sec.3(i), dated 21.1.2013.

20. Ministry of Commerce and Industry, (Department of Commerce), Notification, S.O. 304(E)- In exercise of the powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, read with paragraph 1.3 of the Foreign Trade Policy, 2009-2014, the Central Government hereby amends with immediate effect Foreign Trade Policy, 2009-2014 (RE 2012) and introduces a new para 4A.16A for setting up of Private/Public Bonded Warehouses for Gems and Jewellery sector.

2. A new para 4A.16A after para 4A.16 is being added in FTP as under:

Private/Public Bonded Warehouse – Private/Public Bonded Warehouses may be set up in SEZ/DTA for import and re-export of cut and Polished diamonds, cut and polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum VA of 5%.

3. Effect of this amendment: This will facilitate setting up of Private/Public Bonded Warehouses in SEZ/DTA for Diamond, Gems and precious/semi precious stones.

[Similar provision had existed in the Foreign Trade Policy earlier, but got withdrawn with the import duty being reduced to zero. It is being reintroduced now.]

Source : The Gazette of India, Extraordinary, Part II Sec.3(ii), dated 31.1.2013.

21. Ministry of Commerce and Industry, (Department of Commerce), Notification, S.O. 493(E)– In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), read with paragraph 2.1 of the Foreign Trade Policy, 2009-2014, as amended from time to time, the Central Government hereby amends Schedule 1 (Import Policy), ITC (HS) 2012 as under:-

2. The following Policy Condition is inserted under Chapter 73 of ITC (HS) 2012, Schedule 1 (Import Policy):-

Policy Condition (1):

Import of Used Rails, including cut rails of all lengths, under ITC(HS) Code 7302 is 'free' subject to following condition:

- a. Importer shall furnish the following documents to the customs at the time of clearance of goods:
- I. Pre-shipment inspection certificate as per the format in Appendix-5B from any of the Inspection & Certification agencies listed in Appendix 5, to the effect that the consignment was checked for radiation level and rails do not contain radiation level (gamma and neutron) in excess of natural background. The certificate shall give the value of background radiation level at that place as also the maximum radiation level on the rails; and
 - II. Copy of the contract between the importer and the exporter stipulating that the consignment does not contain any radio active contaminated material in any form.
3. Effect of this notification:

Used Rails, including cut rails of all lengths, will be classified under Chapter 73 of ITC (HS). Import of Used Rails is 'free' subject to Pre-Inspection Condition.

Source: *The Gazette of India, Extraordinary, Part II Sec.3(ii), dated 28.2.2013.*

22. Ministry of Environment and Forests, Notification, S.O.674(E).- In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section 2 of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule (5) of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment to the notification of the Government of India, in the Ministry of Environment and Forests number S.O.1533(E), dated 14th September, 2006 after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the said rule 5 in public interest, namely :-

In the said notification, in the Schedule, under the heading 'Project or Activity' in item 1(a) in column (5), under note (i) the following proviso shall be inserted, namely:- "provided that no fresh environment clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained environment clearance, under this notification".

Source : *The Gazette of India : Extraordinary, Part II-Sec.3(ii), dated 13.3.2013.*

23. Ministry of Commerce and Industry, (Department of Commerce), Directorate General of Foreign Trade, Public Notice F. No. 01/81/162/82/AM12/DES-II – In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14 and Paragraph 1.1 of the Handbook of Procedures (Vol.1), the Directorate General of Foreign Trade hereby makes following amendment in Handbook of Procedure Vol.II (SION Book):-

2. The description of import items in respect of following SIONs is amended as under:-

S. No.	SION S. No.	Export items	Existing import items	Amended import items
(1)	(2)	(3)	(4)	(5)
1	C-1188	Silver Bearing Copper Strip/ Sheets/ Foil	1.Copper Scrap or Copper Wire Bar	1. Copper Scrap or Copper Wire Bar
			2.Silver bullion of Purity 99.99%	2. Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
2	C-1206	Silver Cadmium Oxide Contact	Silver bullion Purity 99.9%	Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/Silver Bullion of purity 99.9% and above
3	C-1207	Silver Graphite Contact	Silver bullion Purity 99.9%	Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
4	C-1208	Silver Nickel Contacts	1.Silver bullion Purity 99.9%	1. Unwrought Silver of purity 99.9% and above/Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
			2.Nickel 99.8% purity	2. Nickel 99.8% purity
5	C-1209	Silver Tungsten Graphite Contact	1.Silver bullion Purity 99.9%	1. Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
			2.Tungsten Graphite 99.95% purity	2. Tungsten Graphite 99.95% purity
6	C-1314	Silver Brazing Alloy in the form of Strips/ Wire/Powder/Foils/ Blanks/Discs/Profile/Sheet/Rod as per ASTM/ JIS/DIN/BIS/ IBS Standard or equivalent	1. Silver Bullion (Minimum purity 99%)	1. Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
			2. Copper (Minimum purity 99%)	2. Copper (Minimum purity 99%)
			3. Zinc (Minimum purity 99%)	3. Zinc (Minimum purity 99%)
			4. Cadmium (Minimum purity 99%)	4. Cadmium (Minimum purity 99%)
			5. Nickel (Minimum Purity 99%)	5. Nickel (Minimum Purity 99%)
			6. Tin (Minimum Purity 99%)	6. Tin (Minimum Purity 99%)
7	C-1702	Silver Contacts/Silver Alloyed contacts or Wire/ Silver profiles contacts/Silver Bimetal Contacts/ Silver Bimetal Profiles/Sheet Contacts/ Silver Contacts on Carrier/ Silver Alloyed Contacts on Carrier/Non-Ferrous Metal Contacts.	1. Unwrought Silver having purity more than 99.9%	1. Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above
			2. Any other relevant metal (s)/ alloying metal(s)	2. Any other relevant metal (s)/ alloying metal(s)

(1)	(2)	(3)	(4)	(5)
8	C-1971	Silver Targets/Discs 99.95% purity	1.Silver Ingots 99.9% purity OR	Unwrought Silver of purity 99.9% and above/ Silver Ingots of purity 99.9% and above/ Silver Bullion of purity 99.9% and above OR
			Scrap Silver/Used Silver Targets/Discs	Scrap Silver/Used Silver Targets/Discs

There is no change in description/quantity of export products or quantity of import items.

3. Effect of Public Notice:-

Different forms of silver have now been uniformly allowed as inputs for the export products in the above mentioned SIONS.

Source: *The Gazette of India, Extraordinary, Part I Sec.1, dated 2.1.2013.*

B. Court Decisions:

1. *M. Palanisamy, Petitioner v. State of Tamil Nadu & Others, Respondents, AIR 2012, Madras 215, Vol. 99, Part 1185, September, 2012.*

Subject:

Challenging the legality and constitutional validity of the statutory duty imposed upon the sand dealers under Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules, 1959 for the purpose of preventing illegal mining, storage and transportation of sand.

Facts:

Petitioners are registered dealers in river sand. They purchase sand from the Public Works Department and transport the same under valid bills issued by the Public Works Department to the leasehold stockyard. After transporting the sand, as the same cannot be used for construction as it is, the petitioners engage labourers, process the said sand by manual grading/machine grading for removal of stones, dust, unwanted elements such as shells, gravel, etc. and make the processed sand fit for construction. By the said process, out of the quantity purchased, only 75% will be fit for construction and the remaining 25% will become waste. 'A' grade sand is used for plastering, while 'B' grade for construction, whereas 'C' grade is used for filling purposes. For transporting the purchased sand, the petitioners use their own vehicles and also vehicles hired from outside. The processed, purified and filtered sand is being purchased by the intending buyers and is being transported to the destination of the purchasers choice under bills issued by the petitioners after paying necessary sales tax to the Government of Tamil Nadu. Such invoices/sale bills normally contain details such as (a) Date of invoice (b) Quantity of Mineral (c) Vehicle Number (d) Destination (e) Vehicle leaving time from the stockyard (f) Expected time to reach the destination, etc.

It is contended that from 01.10.2003 onwards, quarrying of sand by private persons has been banned in the State of Tamil Nadu by introducing Rule 38-A to the Tamil Nadu Minor Mineral Concession Rules, 1959 (for short 'the Rules') and the same was taken over by the Public Works Department and ever since, the PWD has been quarrying and selling sand at the quarry site by collecting the sale amount for each two units of sand. The sale price includes the value of the sand, quarrying cost, loading charges and seignior age. Till 25.08.2008, the

sand so purchased was permitted to be transported either within the State or outside the State without any restrictions. However, the Government of Tamil Nadu banned such transport outside the state by introducing Rule 38-B to the said Rules. According to the petitioners, neither Section 15 nor Section 23-C of the MMDR Act 1957, deal with the control of transportation of the processed minerals from the stockyard or from the processing unit to the destination of the intending purchasers. Neither the Act nor the Rules deal with the trading of minerals. It is stated that the authorities have got the right and jurisdiction to check the vehicles transporting the minerals from the stockyard/processing unit to the place of purchasers destination to see whether the same is transported under valid bills or not, and they have got every right to check the quantity of the minerals and the records of the stockist at the stockyard, but that does not authorize the authorities to control either the sale from the stockyard/processing unit or control of the mineral trade. It is stated that once the mineral is transported from quarry site by paying necessary seigniorage with valid transport permits or with valid PWD Bills, the control and the ownership over the said mineral vests with the stockist/purchaser, and the authorities cannot interfere with its trading and transportation from the stockyard to the place of the intended purchaser except to check the vehicles to see whether the records are clear and the quantity of the mineral coincides with the bills. It is alleged that the authorities can have checkposts, weighing bridges, and even surprise checking squad to curtail illicit transport, but it cannot by any stretch of imagination be extended to either controlling or restricting lawful trade from the stockyard. Trading of minerals is outside the purview of the Act and the Rules. While being so, the respondent State Government by G.O. Ms. No.32, Industries (MMC2) Department dated 11.02.2011, has introduced Rule 38-C, by which it has been made mandatory to obtain a licence for setting up of a stockyard and it also mandates that the sale slip shall be obtained by the stockist from the local Deputy Tahsildar. For the said purpose, the stockist or the licensee shall send the original transport permits issued by the authorities while transporting the mineral from the quarry and also the sale slip for counter signing by the Deputy Tahsildar. It is stated that the transport permit or the sale bill issued by the PWD is pertaining to sale and transport of particular quantity of mineral and the said mineral after being transported to the stockyard will get merged with the stock already existing in the stockyard or with the sand subsequently purchased by the stockist from the PWD. Therefore, it is practically impossible to identify the quantity of the sand which relates to a particular transport permit from the huge stock lying at the stockyard, that too after processing the same. Since, the processing procedure eliminates 25% of the purchased sand, the actual quantity available in the stockyard cannot tally with the sale bills issued by the PWD. It is stated that the conditions imposed by way of impugned Government Order are totally without jurisdiction, per se illegal and without authority. The conditions imposed violate the provisions contained under Article 14 and 19(1) (g) of the Constitution, and they are against the law laid down by the Supreme Court and the High Court.

On the other hand respondents have contended that the purchasers of sand from the PWD quarries are issued with permits for the transportation of sand from the quarry site to the construction point. But some of the purchasers of sand claim that they have established stockyard for sand and they are selling sand from the stockyard. They further claim that their vehicles carrying sand from the stockyard should not be checked by any authority. One of the main objectives of the Government for making available the sand to the common man at a reasonable rate and to curtail illicit transportation of sand is defeated as the sand stockyard holders, after purchasing the sand from the PWD quarry, escalate the price of sand several times before selling and there is scope for illicit transportation and subsequent sale under the guise of stockyard sales. It is stated that the averment of the petitioner that the sand quarried from the PWD cannot be directly used for construction and other purposes is not factually correct. It is stated that Rule 38-C of the Rules stipulates the procedure for establishing sand stockyard and it is not the intention of the government to prohibit the sale of sand from the stockyard. However, those persons who intend to store sand have to necessarily obtain the licence for such establishment of sand stockyard and the licence is also subject to certain conditions as stipulated in the rules. The person who is a licensee for such stockyard should establish that the quantity stocked has already suffered

seigniorage fee and produce documents in support of the same before the authorities. The further transport of sand from the stockyard to any place can be done without any further remittance of seigniorage fee provided that the documents such as the transport permits issued by the PWD for transporting same from the quarrying point to the stockyard are produced in original and the sale slip for re-transporting such sand from the stockyard to the place of the purchaser are authenticated by the Head Quarter's Deputy Tahsildar of the concerned Taluk as per the rules.

It is further contended that the objective of Rule 38-C of the Rules will get defeated if the petitioners are allowed to carry on the business of selling sand from stockyards established without obtaining licence on their own accord and preventing authorities from checking the vehicles. By paying the seigniorage fee for sand, even though the petitioners have become the owners of the sand, they cannot sell the sand at an escalated price by way of stocking it in their stockyards, making artificial scarcity. It is stated that Rule 38-C contains only reasonable restrictions which can be implemented without any practical difficulties. Those restrictions ought to be viewed in an objective manner and in the interest of common public. If anyone wants to trade sand through storing it in stockyards, he should necessarily obtain licence as stipulated in the rules. It is stated that the impugned rule viz., Rule 38-C does not violate the provisions contained in Article 14 or 19(1)(g) of the Constitution. The State Government has enacted Rule 38-C as per the power conferred under Section 23-C of the Mines and Minerals (Development and Regulation) Act, 1957 to protect the environment and ecology as well as taking into consideration the alarming condition of depletion of ground water levels, cost of sand to the common consumer, illegal mining, storage and transports. The action on the part of the State Government is valid as per doctrine of public trust and it is a precautionary principle under which the State should always anticipate environmental harm and take measures to avoid and prevent illegal mining, storage and transportation of sand in the State. The State being a welfare state is under a constitutional obligation to regulate such things. The impugned order in G.O.Ms.No.32, Industries Department dated 11.02.2011 is only a procedural law enacted by the State Government under the powers vested with it as per Section 15 of the Mines and Minerals (Development and Regulations) Act, 1957. The procedures enunciated by the Government in the said Government Order have to be implemented to avoid illicit actions of the petitioners in order to avoid loss of revenue to Government and to protect the larger interest of the common public.

Decision:

The High Court has referred to the Order dated 26.7.2002 passed by the Divisional Bench, Rules 38-A, 38-B, 38-C of the Tamil Nadu Minor Mineral Concession Rules, 1959, Articles 245, 246, 304 and 301 of the Constitution, Sections 15, 23-C of the Mines and Minerals (Development and Regulation) Act, 1957 and decisions given in the cases M.C. Mehta v. Kamal Nath ((1997) 1 SCC 388); Karnataka Industrial Areas Development Board v. C. Kenchappa (AIR 2006 SC 2038) and Deepak Kumar v. State of Haryana (AIR 2012 SC 1386) (wherein Honourable Supreme Court has held that the operation of mines of minor minerals needs to be subjected to strict regulatory parameters) and stated that in exercise of the power conferred upon the State by Section 23-C of the Act the State Government became entitled to frame Rules for the purpose of preventing illegal mining, transportation and storage of minerals. It is further stated that even if the statute does not give power to the Government to make rules, such power can be traced to the enabling provisions. The whole object and purpose for which Section 23-C was inserted in the Act and the corresponding Rule 38-C was made by the State Government is to prevent illegal and illicit mining, transportation and storage of sand. For the purpose of achieving the object, Rule 38-C made it obligatory on the part of the dealers to follow the procedure provided in the said Rule.

Accordingly, the High Court has held that the statutory duty imposed upon the sand dealers under Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules, 1959 for the purpose of preventing illegal mining, storage and transportation of sand, cannot be held as illegal, arbitrary, ultra vires the Constitutional provisions or

any of the provisions of the Act. It is also held that Rule 38-C of the said Rules is fully in conformity with the provisions of the Act and the Rules, and it cannot be held as an excessive exercise of power by the State Government.

Thus, the High Court has dismissed entire batch of writ petitions for want of merit, without any order as to costs.

Petitions dismissed

2. Shambhu Singh, Petitioner, v. State of Rajasthan & another, Respondents, AIR 2012, Rajasthan 156, Vol.99, Part 1186.

Subject:

Challenging the constitutional validity of clause-12 of the Marble Policy, 2002 framed under Rule 65A of the Rajasthan Minor Mineral Concession Rules, 1986.

Facts:

The petitioner has applied for obtaining mining lease for marble situated near village Nizarana, tehsil and district Rajsamand. He filed application for grant of mining lease on 11.5.2009. The State Government in exercise of powers conferred under Rule 65A of the Rajasthan Minor Mineral Concession Rules, 1986 (hereinafter referred to as 'the Rules of 1986'), has framed Marble Policy of 2002 which was made effective vide notification dated 1.3.2002. As per Clause-12 of the Marble Policy, in case of Khatedari or other private land mining lease/quarry licence shall be granted or renewed in favour of Khatedar or private land holder or such other person having acquired surface rights from the Khatedar or land owner on the basis of mutual legal agreement and subject to the conditions that the applicant agrees to undertake mining operations by deploying the mine machinery. Proviso also makes it clear that where available area is less than 2 hectares and surrounded by two or more existing lease/quarry license as provided in Rule 11 of the Rules of 1986, it shall be granted to anyone adjoining lessee/quarry holder on the basis of NOC of the Khatedar/landholder to such person and the new area shall be added to the existing lease/quarry licence.

The petitioner has questioned legality of the aforesaid Clause-12 of the Marble Policy on the ground that under Section 24A of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'the Act of 1957'); notice is required to be given to the occupier of seven days after lease has been granted before actual entry is made by the lease holder. Thus, it is submitted that that Clause-12 of the Marble Policy runs contrary to the intent of Section 24A of the Act of 1957. Reliance has also been placed upon Section 24A (2) to contend that compensation is payable to the occupier of the land with respect to loss or damage which is likely to arise or has arisen in consequence of the reconnaissance mining or prospecting operations. Consequently, NOC or consent should not be required.

Reliance has also been placed by the petitioner on Section 89 (3) and Section 89(4) of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as 'the Act of 1956') as well as the provisions of the Rajasthan Land Acquisition Act, 1953, Rule 18(29) of the Rules of 1986, and submitted that Clause-12 of the Marble Policy, 2002 is ultra vires to the statutory provisions of the Act of 1957 and Rules of 1986.

On behalf of the State Government, it is contended that the Marble Policy has been framed under Rule 65A of the Rules of 1986. The policy is not in contravention of the provisions of the Act. Petitioner has failed to furnish NOC from the Khatedar as per Clause-12 of the Policy. Even under the Rules of 1986, consent of Khatedar is necessary before mining is undertaken. Policy has been framed to prevent illegal mining activities and to develop the minerals.

Petitioner has placed reliance on the provisions of Section 89(4) and 89(5) of the Act of 1956, section 24A (2) of the Act of 1957, Rule 18(29) of the Rules of 1986 and Rule 22(3)(i)(h) of the Mineral Concession Rules of 1960 and contended that the condition prescribed under the Marble Policy is contrary to the object of the above said Acts and Rules.

Learned Additional Advocate General on behalf of the state has contended that the Marble Policy, 2002 has been framed under Rule 65A of the Rules of 1986. There is specific provision in Rule 65A for grant of mineral concession by adopting a different procedure then given in the Rules. Even otherwise, there is no departure made from the Rules of 1986 in the Marble Policy, 2002. Consent of Khatedar is necessary before entering into his land or to carry out mining operation. By making a provision in policy that consent should be obtained before area of Khatedar is leased to prevent complications which may arise after grant of lease, it does not run against Rules. The stage of consent is a procedural aspect. The Policy of 2002 is not repugnant to the provisions of the Act of 1957, Rules of 1986 or the Act of 1956.

Decision:

The High Court has referred to Section 24A of the Act of 1957, Section 89(3), 89(4) and 89(5) of the Act of 1956, Rule 18(29) of the Rules of 1986 and stated that the provisions contained in Clause-12 of the Marble Policy framed under Rule 65A which has force of law, cannot be said to be repugnant to the provisions of Rules of 1986 or that of Act of 1957 or the Act of 1986. Further, the High Court has stated that while making provisions of obtaining consent of a Khatedar before the lease is granted in Clause-12 of Policy of 2002, this Court has found out that no arbitrariness has been committed by the State Government.

The High Court has referred to the Decisions given in the cases-Pallava Granites Industries India (P) Ltd. v. Government of Andhra Pradesh & Ors. (AIR 1997 SC 2098); Raja Veligoti Venkata Sesha Varada Raja Gopalkrishna Yachendra v. Union of India & Ors. (AIR 2004 AP 179); Purkha Ram v. State of Rajasthan & Ors., DB Civil Writ Petition No.12674/11 decided on 19.12.2011 by this Court; decision of this Court in Mohd. Bux v. State of Rajasthan & Ors.1993(1)RLR 11; Dinesh Pratap Dwivedi v.State of Uttar Pradesh & Ors. (1995 All LJ 872); Kailash Chand Mangla v. State of Rajasthan & Another, Civil Misc. Appeal No.216/97 decided on 1.7.1997; State of Rajasthan & Ors. v.National Limestone Co.(P) Ltd , 2008 (5) WLC (Raj) 681; Punjab Water Supply and Sewerage Board v.Hari Har Yadav & Ors.(AIR 2007 SC 1082); Union of India & Another v.Central Electrical and Mechanical Engineering Service Group A & Ors. (AIR 2008 SC 3); M/s Bharat Coking Coal Ltd v.State of Bihar & Ors., JT 1990 (3) SC 533; M/s T.R.Chemicals Ltd & Anr.v.State of Orissa & Anr. (AIR 2008 Orissa 126); and Magh Singh v.State of Rajasthan & Ors.(AIR 1995 Raj 133) and stated that the clause- 12 of the Policy is in terms of Rules of 1986, there is no statutory violation made in Policy, 2002 by making procedural provision to obtaining the consent imperative before lease is granted. There is no violation of provisions of the Act of 1956 or the Rules of 1986.

Accordingly, the High Court has held that clause 12 of the Marble Policy, 2002 cannot be said to be unconstitutional, illegal or arbitrary or repugnant to the provisions of the Act of 1957 and the Rules of 1986 in any manner whatsoever. And, challenging the validity of Clause 12 of the Marble Policy, 2002 has no substance.

Lastly, the High Court has dismissed the writ petition and directed to the parties to bear their own costs.

Petition dismissed

3. Jarnail Singh, Petitioner v. State of Rajasthan and others, Respondents, AIR 2012, Rajasthan 168, Vol.99, Part 1187, November, 2012.

Subject:

Challenging the order of rejection of mining lease application.

Facts:

The petitioner had applied for a mining lease of masonry stone in the area admeasuring 200x50 sq meters near village Chinawara, tehsil Pahadi, district Bharatpur on 23.1.2008 which was registered as M.L. No.54/2008. The petitioner filed this application with all required documents like site map, jamabandi, etc. After a period of one year and five months from filing of the application, vide order dated 20.5.2009, the Supt.Mining Engineer, Bharatpur, without providing an opportunity of hearing, rejected the petitioner's application inter alia on the ground that the applied area for granting mining lease was against the rehabilitation of the leaseholder of Kama-Deeg area under delineated plots. Aggrieved of the order dated 20.5.2009, the petitioner filed a revision before the Deputy Secretary (Mines), Mines Dept., Jaipur. A reply to the revision was filed by the Supt.Mining Engineer (respondent No.3). After hearing both the parties, vide order dated 11.5.2011, the Dy. Secretary (Mines) dismissed the petitioner's revision with the same finding as given by the Supt.Mining Engineer and upheld the order dated 20.5.2009. Aggrieved of the order dated 11.05.2011, the petitioner has approached this Court.

It has been submitted by the Mining Department that while the application of the petitioner for grant of mining lease was under process, M.L. No.54/2008 was checked and examined by the draftman on 24.10.2008 and it was found that applied area of the petitioner was overlapping M.L. Nos. 412/2002 and 479/2002. It is submitted that again according to the draftman's report dated 1.5.2009, Senior Geologist, Alwar vide his letter dated 8.10.2008 sent the maps of delineated plots to the Executive Mining Engineer, Bharatpur, which was received on 15.1.2009 and it was found that the present applied area of the petitioner bearing M.L.No.54/2008 was overlapping the delineated plots. Therefore, a proposal for rejection of the petitioner's application was sent to the Supt. Mining Engineer, Bharatpur on 14.5.2009 and thereafter the Supt. Mining Engineer, Bharatpur vide its order dated 20.5.2009 rejected the petitioner's application.

Additional Government Counsel for the State contended that the State Government keeping in view the religious importance of Brij area in tehsil Kama and Deeg, in public interest decided to close down 202 mining leases situated in the hills of tehsil Deeg and Kama under the order dated 6.2.2008 as the said area was directed to be set apart under the Land Revenue Act as forest area. The Government thereafter on due deliberations decided to rehabilitate 202 mining lease owners by grant of delineated plots for mining in village Gangora, Chinawara, Libasana, Bijasana, Chhpara, etc. of Bharatpur district and in this regard the Superintending Engineer (Head Quarters) forwarded the detailed proposals to the Principal Secretary, Department of Mines and Petroleum, Government of Rajasthan vide letter dated 24.9.2008. In this letter, as per the proposals made by the Supt. Mining Engineer, Bharatput the Government was requested to relax Rule-7 of the Rajasthan Minor Mineral Concession Rules, 1986 (for short, the MMCR, 1986).

Learned counsel for the State further contended that the State Government after considering the aforesaid proposals, vide letter dated 3.10.2008 in the exercise of its powers under Rule-63 of the MMCR, 1986 granted relaxation in Rule-7 of the said Rules. It was stated in the letter that out of 202 mining leases closed down in tehsil Kama and Deeg, 13 mining lease owners had already been rehabilitated in tehsil Pahadi by allotting mines through a lottery and for the rehabilitation of remaining 189 mining lease owners, 190 plots on one hectare each had been prepared in tehsil Pahadi on Government Sawaichak land. The Government, accorded sanction for allotment of these one hectare plots to the displaced mining lessees in the area falling the Brij Chorasi Kos Parikrama Path in tehsil Deeg and Kama.

Learned counsel for the state further contended that on scrutiny of the petitioner's application by the Map Section in the office of the Mining Engineer, Bharatpur it transpired that the applied area by the petitioner was overlapping M.L. Nos. 412/2002 and 479/2002 and in these facts the Mining Engineer, Bharatpur vide letter dated 14.5.2009 forwarded the proposals to the Superintending Mining Engineer, Bharatpur for rejecting the application of the petitioner in terms of Rules-8 and 9 of the MMCR, 1986. In pursuance to the letter dated 14.5.2009, the Superintending Mining Engineer after considering the proposals forwarded by the Mining Engineer, Bharatpur and other relevant material rejected the mining lease application of the petitioner in terms of Rule-8 of the MMCR, 1986 by passing a reasoned and speaking order dated 20.5.2009. Learned counsel for the state also contended that against the order dated 20.5.2009 the remedy available to the petitioner was an appeal under Rule 43 of the MMCR, 1986 and thereafter, a revision petition if warranted under Rule-47 of the MMCR, 1986.

Decision:

The High Court has stated that in view of the policy decision of the State Government for the rehabilitation of 189 mining lease holders whose mines falling in villages Deeg and Kama within Brij Chorasi Kos Parikrama Path were cancelled and Rule-7 of the MMCR, 1986 was relaxed and the Mining Department was allowed to overlook the pending prior applications in terms of the aforesaid policy decision, the petitioner has no case of violation of the provisions of the MMCR, 1986.

The High Court has further stated that it was on record of the Department that after adjusting for the plots delineated for rehabilitation of the mining lessees for Brij Chorasi Kos Parikrama area, the petitioner's application for grant of mining lease for masonry stone could not be accommodated in the vacant land left and in terms of Rule-11 of the MMCR, 1986 being less than one hectare could not have been allotted as a mining lease to the petitioner. Consequently, there is no error which vitiates the order dated 20.5.2009, passed by the Supt. Mining Engineer, Bharatpur and the order dated 11.5.2011, passed by the Deputy Secretary, Mines.

Accordingly, the High Court has found out that there is no force in the petition, hence dismissed the writ petition as well as stay application.

Petition dismissed

4. Mrs. K.Seetha, Petitioner v. District Collector, Thoothukudi district, Respondent, AIR 2012, Madras 245, Vol.99, Part 1187, November, 2012.

Subject:

Challenging the order of rejection of the request, to issue transport permits to transport quarried mineral, during the currency of the lease period.

Facts:

The petitioner was granted a granite lease by the Government of Tamil Nadu by G.O. (3D) No.89, Industries (MMB2) Department, dated 4.11.1999 in respect of the petitioners patta lands measuring 2.29.5 hectares, comprised in survey Nos. 17/9A,9B,10A,18/9.10.19/4,6,7,8,12 (part) and 460/13 (part) situated in Keclamangalam and Pasuvanathanai villages, Ottapidaram taluk, Thoothukudi district. Lease agreement has been executed on 22.11.1999 and duly registered on 20.12.1999. The said lease was granted for a period of 10 years that was from 22.11.1999 to 21.11.2009.

Pursuant to the lease granted, the petitioner had quarried and transported the mineral from the said quarry strictly by following the conditions of the lease and Rules, after obtaining necessary transport permits and after paying the required seigniorage fee. On the date of the expiry of the lease as per the stock register of the petitioner, there is a stock of total quantity of 1,778.948 cum of marketable granite lying at the quarry. The said stock has been verified and countersigned by the Assistant Director of Geology and Mining, Thoothukudi.

According to the petitioner, she is entitled to remove and transport the said quantity of 1,778.948 cum. Since the request of the petitioner to issue transport permits to transport the said mineral on payment of necessary signiorage fee was not considered by the respondent, a representation dated 4.4.2011 was sent to the respondent seeking transport permits. By order dated 1.7.2011, the request was rejected. The said order of rejection is challenged in the above writ petition.

It is contended by the respondent that the petitioner informed in her petition dated 18.11.2006 that she had stopped the quarrying operations for the last two months and requested to treat the quarry as closed and as such, the petitioner stopped quarrying three years before the expiry of lease period on 21.11.2009. It is also contended that the petitioner has submitted the petition dated 4.4.2011 after a lapse of more than 3+ years. It is further contended that as per Rule 36(5) (f) of the Tamil Nadu Minor Mineral Concession Rules, 1959 (in short herein after referred to as 'the Rules of 1959') no person is entitled to remove any mineral from any land after expiry of the period of quarrying permit or quarrying lease granted. Therefore, in accordance with this Rule, the writ petitioner is not entitled to transport the mineral quarried, after the expiry of the lease period. Hence, the request of the petitioner made in her petition dated 4.4.2011 was rejected. It is further contended that the petitioner ought to have transported the stocks within the currency of lease which ended on 21.11.2009 and she is not entitled for the same after lapse of three years from the date of volunteer closure on 18.11.2006.

Learned counsel for the petitioner contended that the learned single judges and a Division Bench of this court have held that Rule 36 of the Rules of 1959 never prohibits for issuance of transport permit in respect of the mineral quarried during the currency of the earlier lease period.

Learned Special Government Pleader has contended that when admittedly, the petitioner had informed by her petition dated 18.11.2006 that she had stopped quarrying operations for the last two months and requested to treat the quarry as closed, she is not entitled to seek transport permits by her petition dated 4.4.2011 to transport 1,778.948 cum of marketable granite. Further, the said quantity had been quarried after the stoppage of work in the quarry and Rule 36 (5)(f) of the Rules of 1959 does not permit the removal of any mineral after the expiry of the period of quarrying permit or quarrying lease granted, the impugned order was sought to be sustained. It is further contended that the petitioner already filed a writ petition in W.P.(MD) No.7003 of 2011, which was dismissed on 18.10.2011 and hence, the present writ petition is not maintainable.

Point of issue: Whether the petitioner is entitled to get transport permit to transport 1,778.948 cum of marketable granite claimed to have been quarried by her before the stoppage of mining activities in November, 2006.

Decision:

The High Court has stated that the contention of the petitioner that the said quantity had been quarried only during the currency of the lease and before stoppage of the mining operations has to be accepted, for the reason that if the said quantity had been quarried either after the stoppage of quarrying operations or after the expiry of the lease period, the Assistant Director of Geology would not have counter-signed the stock register. Thus, there is no dispute that the stock in respect of which now the transport permit is sought for had been quarried during the currency of the lease period and before the stoppage of the quarrying operations in the quarry.

The High Court has referred to the various orders passed by the learned single judges of this Court as well as by a Division Bench of this Court, and stated that Rule 36(5)(f) of the Rules of 1959 does not prohibit the issuance of transport permit in respect of the minerals quarried during the currency of the earlier lease period.

Accordingly, the High Court had quashed the order of the respondent No.Na.Ka.G.M.1/277/2011 dated 1.7.2011 and directed the respondent to issue transport permit on payment of necessary seigniorage fee to transport the total quantity of 1,778.948 cum of marketable granite quarried during the currency of the lease and

now lying at the said quarry lands measuring 2.29.5 hectares comprised in Survey Nos. 17/9A, 9B, 10A, 18/9, 10,19/4,6,7,8,12 (part) and 460/13 (part) situated in Keelamangalam and Pusuvanthanai village, Ottapidaram taluk, Thoothukudi district. The High Court had further directed to the respondent to issue the transport permits for the quantity, for which such permits are sought for, on payment of necessary seigniorage fee, within a period of four weeks from the date of receipt of a copy of this order.

Thus, the High Court had allowed the writ petition, and closed the connected miscellaneous petition, without any order as to costs.

Petition allowed

5. Bhramarabar Das, Petitioner v. State of Orissa & Others, Respondents, AIR 2012, Orissa 163, Vol. 99, Part 1187, November, 2012.

Subject:

The writ petition has been filed to quash the order dated 14.01.2011 rejecting the petitioner's application for renewal of the lease and the auction notice dated 15.02.2011.

Facts:

The petitioner is engaged in manufacturing stone chips and metals since 1993 in the name and style of "M/s Jharabahal Stone Quarry", which comes within micro small scale industry and has been allotted entrepreneurs' Memorandum No.210311100289 on 28.06.2008 by the Project Manager, District Industries Centre, Rourkela. Since 1993 the petitioner was operating the stone quarry on lease basis from the Government of Orissa. Jharabahal Stone Quarry No.1 was granted/ renewed in favour of the petitioner in 2007 by the opposite party No.4-Tahasildar, Rourkela on 11.09.2007 for a period of four years starting from the financial year 2007-2008 till 2010-2011 and the said lease was to expire on 31.03.2011. Since the lease was to expire on 31.03.2011, the petitioner filed an application for renewal of Jharabahal (RTU-47) Stone Quarry lease before Opposite Party No.4. The said application has been duly received by the office of opposite party No.4 on 20.12.2010 along with all necessary documents like the solvency certificate, clearance certificate obtained from the Asst. Commissioner of Sales Tax, a treasury challan of Rs.1000/- etc. Opposite party No.4 by his order dated 14.01.2011 rejected the said renewal application on the ground that the Government of Orissa as well as the Board of Revenue in their various circulars and instructions have made it clear to settle the Miner Mineral through annual auction only and not through lease.

Learned Senior Advocate for the petitioner contented that the Orissa Minor Mineral Concession Rules, 2004 (for short, "OMMC Rules, 2004") which provides for auctioning of the mineral sources every year will lead to closure of micro level crusher units due to lack of raw materials. Micro level entrepreneurs because of their size cannot afford to remain in manufacturing by sourcing stones from the quarry owners in case of auction of the quarries. Rules 35 and 36 of the OMMC Rules, 2004 put unreasonable restriction on business of unemployed youths inasmuch as the auction will be for a period of one year only. Rule 27 of the OMMC Rules, 2004 mandates that in case of renewal, a person who has been operating an industry based on minor mineral shall be given priority. The aim behind such a legislation is to see that if a person, applying for renewal of his quarry, who has set up an industry based on minor minerals is given priority as because the same individual must have expended a huge sum of money in setting up the said industry and if the lease deed is not renewed, it may so happen that the said person may not be able to pay back his debts and the industry may come to a standstill position. Learned Senior Advocate has placed reliance on the decisions of the Honourable Supreme Court in the cases of Ramana Dayaram Shetty v. International Airport Authority of India, (AIR 1979 SC 1628); D.K. Trivedi and Sons v. State of Gujarat, (AIR 1986 SC 1323); Vasanlal Maganbhai Sanjanwala v. State of Bombay, (AIR 1961 SC 4), M/s. Khoday Distilleries Ltd etc. v. State of Karnataka and others, (AIR 1996 SC 911), State of A.P. and others, etc. v. McDowell and Co. and others etc., (AIR 1996 SC 1627).

Learned Government Advocate for Respondents contented that different sairats owned by the Government are utilized for generation of revenue. In several decisions, the Hon'ble Supreme Court has held that the auction is the best method to grant lease/licence of State property. The petitioner is not debarred from participating in the auction to be held as per public notice issued for settling the stone quarry. It is stated that the Government in Revenue Department vide letter No.ST-4/2005 36665/R BBSR dated 06.09.2005 have issued instruction that the sairat sources shall only be settled in public auction as per the provisions laid down in Chapter-VI under the OMMC Rules, 2004 and 53 of the Manual of Tahasil accounts. In view of the Government instruction, no lease is permissible and the sources will be settled only by way of auction.

Learned Government Advocate has placed reliance on the judgment of the Honourable Supreme Court in the cases of Ramana Dayaram Shetty (supra) and Union of India v. International Trading Co., (AIR 2003 SC 3983), and submitted that the State has right to dispose of its mineral recourses through auction to generate more revenue and that does not violate Articles 14 and 21 of the Constitution. It was also submitted that Rules 35 and 36 of the OMMC Rules have been framed in accordance with Section 15 of the MMDR Act, 1957, which do not suffer from any lack of legislative competency or excessive delegation.

Decision:

The High Court has pointed out that in the present case, the Jharabahal Stone Quarry No.1 was leased out in favour of petitioner in the year 2007 by the Tahasildar, Rourkela (O.P.No.4) on 11.09.2007 for a period of four years starting from 2007-08 till 2010-11 and the lease was to expire on 31.03.2011 and the petitioner filed an application for renewal of the said Stone Quarry after expiry of the lease on 31.03.2011. Since the lease was granted up to 31.03.2011, after 31.03.2011, the petitioner has no right to claim renewal of the lease.

The High Court has stated that petitioner's legitimate expectation does not merit consideration since the petitioner knowing pretty well the provisions of Rules 35 and 36 of the Rules, 2004 has established his business of manufacturing stone chips and metals. Therefore, he cannot not claim that he has any right to be granted for renewal of lease. Since Chapter-VI has overriding effect and the Hon'ble Supreme Court and the High Courts have consistently held that the State largesee should be sold or disposed of by public auction and the State Government for larger public interest decided to dispose of the Sairat in question covered under Rule 35 by public auction, the provision contained in Rule 27 is of no help to the petitioner. In view of the above, opposite party No.4-Tahasildar, Rourkela acting as per the order of opposite party No.3-Sub-Collector, Rourkela has rightly rejected the application of the petitioner for renewal of lease in question and issued the auction notice dated 15.02.2011.

The High Court has referred to the case of Deepak Kumar, etc. v. State of Haryana and others, etc. (AIR 2012 SC 1386), (wherein the Hon'ble Supreme Court has held that lessee may be permitted to quarry the mineral from the sairat source in question at least for a period of five years) and held that the application of the petitioner, who is already lessee may be considered by putting the sairat source to public auction. It is open for any category of applicant referred to in Rule-27 including the petitioner to participate in public auction of minor mineral and in case the petitioner is not found to be the highest bidder, but agrees to match with the price at which the bid is knocked, preference shall be given to him even though he is not the highest bidder.

Accordingly, with the above observations and directions, the High Court has allowed the writ petition.

Petitions allowed

6. Bihar Mica Exporters Association, Petitioner v. State of Jharkhand & Others, Respondents, AIR 2012, Jharkhand 148, Vol. 99, Part 1187, November, 2012.

Subject:

In these batches of writ petitions the petitioners have challenged (i) the validity of "Jharkhand Minerals Dealers Rules, 2007", framed in exercise of powers conferred under Section 23C(1)(2) of the Mines and Minerals(Development and Regulations)Act, 1957 by the State Government of Jharkhand vide notification dated 21.9.2007 and (ii) the consequential orders issued by the District Mining Officer under the Rules of 2007 directing the petitioners to obtain registration under the aforesaid rules.

Facts:

Petitioners under W.P.C. No. 6244 of 2007 i.e., Bihar Mica Exporters Association claim themselves to be the members carrying on the business and trading in Mica on the basis of Dealers License granted under Section 6 of the Mica Act,1947. The Mica Act was enacted for the purpose of regulating and controlling the possession and trade in Mica and the Bihar Mica Rules framed thereunder provides the mode and manner for carrying out the purpose of the said Act. The petitioners claim that they are carrying on their business including export and trade in mica in compliance of the provisions of the Mica Act and Rules framed thereunder. The cause of action for these petitioners have arisen on the issuance of the impugned letter dated 22.10.2007 asking them to get registered under the provisions of Rules of 2007 or else face the penal consequences.

The petitioners in W.P.C. No. 7 of 2008 contended that they are members of Industries and Commerce Association, who own and possess their respective hard coke plants located in the district of Dhanbad and are companies duly registered under Section 25 of the Company's Act. They purchase coal from different collieries of C.C.L. and B.C.C.L situated in the state of Jharkhand as raw materials for the purpose of production of hard coke in the respective plants owned by them for the purpose of selling them in the market. They are neither doing any mining work nor holding any mining license. It is also submitted that coal is a major mineral and not a minor mineral as defined under Section 3(e) of the Mines and Minerals (Development and Regulations) Act, 1957 (herein after referred to as MMDR Act) and that the State government is empowered under Section 15 of the said act for making Rules in respect of minor minerals only. It is also submitted that under the amended section 23C inserted by the Act 38 of 1999, w.e.f. 18.12.1999 the State Government has been conferred powers to make Rules for prevention of illegal mining, transportation and storage of minor minerals only. It is further contended that the impugned Rules are violative of Articles 19(1)(g), 14 and 300A of the Constitution, besides having been framed in excess of the powers conferred under Section 23C and as per Section 28(3) of the M.M.D.R Act, they have not been laid before the House of the State Legislature.

Petitioners in W.P.C. No. 6270 of 2007 contended that they are manufacturer of Calcined Fireclay and Refractories having valid SSI registration with the Industries Department and other Acts like the Factories Act, VAT Act, Income Tax Act etc. It is also contended that for the purpose of manufacturing they procure minerals from different mines under valid challans and after undertaking treatment of minerals by different methods it ends up in finished products, which do not contain any properties of minerals which have been procured from the mines. Petitioners further contended that under the aforesaid impugned Rules the State Government has proceeded to regulate the activities relating to mineral products which are not within the compass of Rule making power conferred under Section 23C of the MMDR Act. That these petitioners have arbitrarily and unnecessarily been brought under the domain of the impugned Rules by asking them to have mandatory registration with the Mining & Geology Department, Government of Jharkhand.

Petitioners in W.P.C no. 2195 of 2008 state that they are registered coal dealers of the State Mineral Development Corporation Ltd , which is extracting coal from Sikni Coal Project, Sikni, who after obtaining proper transit permit despatch the said coal to different consumers in different parts of Jharkhand . These

petitioners are aggrieved by the impugned Rules as that amounts to restriction in their Fundamental Right to do business under Article 19(1)(g) of the Constitution of India. They are also assailing the impugned Rules on the ground of violation of Article 14 of the Constitution of India being discriminatory in nature. Learned Senior Advocate for the petitioners contented that they would be compelled to obtain further license for carrying out their activities in transaction of coal validly purchased from the Jharkhand State Mineral Development Co. Ltd, which pays the royalty for the same, failing which they would be liable for penal action under the impugned Rules. They have assailed the impugned Rules as being violative of Section 15, 23C, 28(3) of the MMDR Act and also with respect to Entry 54 List 1 of the VIIth Schedule of the Constitution of India. They further assailed the impugned Rules as being violative of Article 301 and 304 of the Constitution of India for causing impediment to free flow of trade, commerce and intercourse throughout the territory of India. It is their assertion that coal being major mineral; it is only the Central Government, who has the power to frame Rules in relation to the major minerals like coal, which is beyond the jurisdiction of the State Government.

Petitioners in W.P.C. No. 6342 of 2007 have also assailed the impugned Rules, 2007 and the consequent notice issued thereunder. They claim themselves to be consumers and not mines holder and are aggrieved by the impugned Rules.

Petitioners in W.P.C. No. 6402 of 2007 have assailed the impugned Rules under similar grounds as that of petitioners in W.P.C. No. 6342 of 2007. They state that they are engaged in manufacturing sponge iron, iron bar, pipe profile, angle, channel and ingots purchase raw materials from within and outside the State and are consumers and not mines holders.

Petitioners in W.P.C. No. 2441 of 2009 comprises association of small scale industries and few member companies of the said association, who are engaged in manufacturing of ceramics and refractories having SSI registration of the Industries Department and other Act like the Factories Act, VAT, Income Tax etc. They have asserted that for the purpose of manufacturing they procure minerals from different mines under valid challan and those minerals are subjected to different methods of treatment leading to manufacture of finished products, which do not contain any properties of minerals which are procured from mines. These petitioners are also aggrieved by the impugned Rules, which purportedly regulate the activities of the petitioners, so far as activities of possession, storage, trading, selling and transportation of minerals products are concerned.

On behalf of the Respondent- State, it is contented that (a) these Rules have been framed under the specific power conferred on the delegate i.e. State Government under the provisions of 23C of the MMDR Act. (b) These Rules have been framed pursuant to the amendment consciously introduced in the MMDR Act by amending Act 38 of 1999 being 23C with specific aim and object to prevent illegal mining, transportation and storage of minerals and for the purpose connected therewith. (c) It is also stated by quoting the provisions of Section 23C that these Rules are framed under Section 23C (1)(2), which confers these powers upon the State Government in particular and without prejudice to the generality of the foregoing power to frame Rules on all or any of the following matters (a) to (g) enumerated under sub section (2) of 23C. The Act and the Rules framed thereunder is to ensure prevention of illegal mining, transportation and storage of minerals and for the purposes connected therewith, which has attracted attention of the parliament leading to the insertion of the provision of Section 23C in the act of 1999. (d) It is also submitted that section 15 and 23 are independent in existence. While Section 15 of the MMDR empowers the State Government to make Rules with respect to minor minerals whereas under Section 23C the State Government has been empowered to make rules for minerals in general including both minor and major minerals. (e) The Respondents have further controverted the submission of the petitioners in relations to the provisions of Entry 54 List I of the VIIth Schedule by stating that the Parliament has specifically enacted the MMDR Act, 1957 in exercise of its legislative power in respect of the subject falling in Entry 54 List I of the VIIth Schedule and wherein the Parliament in its wisdom has delegated power to frame Rules to the State Government for preventing illegal mining and allied activities thereto.

The respondents have also contented that under the impugned Rules of 2007 as framed under Section 23C of the MMDR Act, Mica being a major mineral also comes in its purview and the said Rules by no stretch of imagination can be said to be contravention of Bihar Mica Act, 1947.

Learned counsel for the State has drawn the attention of this Court to a number of judgments delivered by the different High Courts and contented that the provision of impugned Rules are neither in excess of the delegated power conferred upon the State Government under Section 23C of the Act of 1957 nor are in any sense violative of Article 19(1)(g) or Articles 301 and 304 of the Constitution of India. He has further contented that the Rules framed under the aforesaid provisions of the MMDR Act by the different State Governments are *pari materia* with the present impugned Rules.

Decision:

The High Court has referred to Sections 2, 3(a), 3(e), 4(1A), 13, 14, 15 and 23C of MMDR Act, 1957 and Rules 1(iii), 2, 3, 4, 8, 9, 10 and 12 of the Jharkhand Minerals Dealers Rules, 2007 (issued vide notification dated 21.9.2007) and Articles 14, 19(1)(g), 245, 246, 301 and 304 of the Constitution of India and also referred to the decisions in the cases- Union of India v. Shah Goverdhan L. Kabra Teachers' College (AIR 2002 SC 3675); M.P.V. Sundararamier & Co. v. State of Andhra Pradesh and others (AIR 1958 SC 468); M/s Hoechst Pharmaceuticals Ltd & ors. v. State of Bihar (AIR 1983 SC 1019); Hingir-Rampur Coal Co. Ltd & others v. The State of Orissa (AIR 1961 SC 459); Quarry Owners' Association v. State of Bihar & Ors. (AIR 2000 SC 2870); State of Tamil Nadu v. M/s Hind Stone & others (AIR 1981 SC 711); St. Johns Teachers Training Institute v. Regional Director, National Council for Teacher Education (AIR 2003 SC 1533); R.M.D. Chamarbaugwalla v. Union of India (AIR 1957 SC 628); D.K.Trivedi & Sons v. State of Gujarat (AIR 1986 SC 1323) and held that the challenge to the impugned Rules on the grounds of lack of legislative competence on a field occupied by a State Legislature are without substance. The writ petitioners have also failed to make a case of violation of the Fundamental Right under Article 19(1)(g) and 14 of the Constitution of India or as to any infringement of Article 301 or 304 of the Constitution. These Rules are within the purview of the delegated power conferred upon the State Government under Section 23C of the MMDR Act and are *intra vires* the Parent Act i.e. MMDR Act except to the provisions relating to the "Mineral Products" as indicated hereinabove and as such the provisions of the impugned Rules shall not apply to the "Mineral Products." The impugned Rules have otherwise been validly framed in order to suppress the mischief of illegal mining, transportation and storage of minerals and for the purposes connected therewith. Jharkhand being a immensely mineral rich state, these rules are required to be enforced with full force and rigour to fulfill the aims and object of the legislation.

Further, the High Court has held that it is proper to employ the technique of reading down of the provisions relating to mineral products used in the impugned Rules which apparently are not covered under the delegated powers conferred by Section 23C of the Act of 1957 without rendering the entire Rules inoperative or *ultra vires*. Whether a mineral remains a mineral or has undergone a change in its fundamental nature into a mineral product is a question of fact to be determined in each individual case by the competent authority under the Act and the Rules. So long the minerals excavated remain mineral, they are subjected to the Rules in question. There is an avowed object behind the aforesaid Rules framed under Section 23C of the MMDR Act which have to advanced by resorting to the principle of purposive construction. Therefore, we deem it appropriate to uphold the validity of the impugned Rule subject to the reading down of the provision relating to mineral products used in the impugned Rules.

Accordingly, the High Court has dismissed these writ petitions for want of merit, without any order as to costs.

Petitions dismissed.