सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20260471MN000011111D

क	फ़ाइल संख्या FILE NO.	S/49-220/CUS/JMN/SEP/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	JMN-CUSTM-000-APP- 001 -26-27
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	08.04.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. 05/Additional Commissioner/2025-26 dated 03.07.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	08.04.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s R. K. Asia Resources, No. 13-7-17/ Golden Opulence, Poonamlle High Road, Chennai, Tamil Nadu - 600056

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधम), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	**मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-**	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.**	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	**उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.**	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

The present appeal has been filed by M/s R. K. Asia Resources, No. 13-7-17/ Golden Opulence, Poonamlle High Road, Chennai, Tamil Nadu - 600056, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. 05/Additional Commissioner/2025-26 dated 02.07.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs (P), Jamnagar (hereinafter referred to as the "Adjudicating Authority").

2.1 The facts of the case, in brief, are that the Appellant filed Shipping Bill No. 5468284 dated 10.07.2019 for export of goods declared as "Natural Abrasive Grain" classifiable under CTH 2513 2090 of the First Schedule to the Customs Tariff Act, 1975. During the course of examination, the Department entertained a doubt regarding the correctness of the declared classification and accordingly drew samples for testing. The samples were initially sent to CRCL, Kandla for analysis.

2.2 During the pendency of the test results, the Appellant, vide letter dated 07.08.2019 addressed to the Deputy Commissioner, Custom House, Gujarat Pipavav Port Limited, requested permission to export the goods under test bond, inter alia stating that the delay in receipt of test reports was affecting their shipment schedule committed to overseas buyers. The Appellant further declared that the goods exported by them were "Natural Abrasive Grain" as declared in the shipping documents and not natural garnet, and undertook that in case the test results were found to be contrary to their declaration, they would be liable for action under the provisions of the Customs Act, 1962. Accordingly, on execution of a Test Bond dated 10.08.2019, the goods were provisionally allowed to be exported.

2.3 Subsequently, CRCL, Kandla reported that the exact identification of the sample could not be ascertained due to lack of advanced testing facilities such as crystallography/XRD and suggested further examination at a higher laboratory. Thereafter, the samples were forwarded to CRCL, New Delhi, which, based on physical, chemical and XRD analysis, opined the sample to be "Natural Garnet (Almandine)." Based on the said test report, the Department formed a view that the goods exported by the Appellant were in fact "Natural Garnet," the export of which is subject to restriction under the applicable DGFT provisions, and that the Appellant had misdeclared the goods with intent to circumvent such restrictions.

2.4 Accordingly, a Show Cause Notice bearing F. No. VIII/10-21/ADC/O&A/2019-20 dated 13.12.2019 was issued to M/s. R. K. Asia Resources, Chennai, calling upon them to show cause as to why the goods covered under the aforesaid Shipping Bill should not be re-assessed by reclassifying the same from Tariff Heading 2513 2090 to 2513 2030 under Section 17(4) of the Customs Act, 1962; why the goods, namely 100 Metric Tonnes valued at Rs. 18,30,545/-, should not be confiscated under Sections 113(d) and 113(i) of the Act; and why penalty should not be imposed under Section 114 of the Customs Act, 1962.

2.5 The said Show Cause Notice was adjudicated vide Order-in-Original No. 06/Additional Commissioner/21-22 dated 17.12.2021 passed by the Additional Commissioner, Customs (Prev.), Jamnagar, wherein the adjudicating authority ordered re-assessment of the Shipping Bill by classifying the goods under CTH 2513 2030, ordered confiscation of the goods under Sections 113(d) and 113(i) of the Customs Act, 1962 and, as the goods were not physically available for confiscation, imposed a redemption fine of Rs. 5,00,000/- under Section 125 of the Act. Further, a penalty of Rs. 20,00,000/- was imposed on the Appellant under Section 114(i) of the Customs Act, 1962, and it was also ordered that the bond furnished by the Appellant be enforced for recovery of the fine and penalty imposed.

2.6 Aggrieved by the said Order-in-Original, the Appellant preferred an appeal before the Commissioner (Appeals), Ahmedabad. The Commissioner (Appeals), upon examination of the matter, observed that the adjudicating authority had failed to deal with the specific contention of the Appellant that the test reports relied upon by the Department did not conform to the specifications of "OR Coarse Grade" and "OR Medium Grade" as prescribed by the canalizing agency, i.e. IREL, vide letter dated 28.12.2018, which had been obtained by the Appellant under the RTI Act. It was further observed that the adjudicating authority had not recorded any findings on the discrepancies pointed out by the Appellant in the CRCL New Delhi test report, thereby resulting in violation of the principles of natural justice. Accordingly, the Commissioner (Appeals) set aside the Order-in-Original and remanded the matter back to the Adjudicating Authority for fresh adjudication.

2.7 Pursuant to the remand, the Adjudicating Authority has again passed the impugned order reiterating the earlier findings, ordering reclassification of the goods under CTH 2513 2030, confirming confiscation under Sections 113(d) and 113(i) of the Customs Act, 1962, imposing redemption fine and penalty, and ordering enforcement of the bond.

3. Submission of the Appellant:

Aggrieved by the said impugned order, the Appellant has filed the present appeal before this appellate authority on grounds as under:

3.1 The impugned order is a non-speaking order inasmuch as it does not deal with all the submissions that were advanced by the appellant in the course of adjudication. Therefore, on this ground alone, the impugned order is not tenable in the eyes of law and accordingly, the same is liable to be quashed and set aside.

3.2 The appellant submits that Ld. Adjudicating Authority has erred in failing to appreciate that once the appellant had made specific request for cross-examination of chemical examiner and for providing record sheets maintained by them, it was incumbent upon the Authority to conduct examination-in-chief and examine the record sheets containing readings of observations made by them during testing. However, despite demonstrating huge variation between the parameters of garnet stated in the technical literature provided by IREL as well as other authors (provided by department), Ld. Adjudicating Authority has summarily and hence, improperly and illegally the request without taking any objective view of the tests supposedly carried out by CRCL.

3.3 That the Ld. Adjudicating Authority has erred in failing to appreciate that Notification No. 26/2015-20 dated 21.08.2018 issued by DGFT does not apply to abrasives mined from Rajasthan. Inasmuch as there is no evidence to establish that the goods have any connection with beach sand, the same is not covered by the aforesaid notification and the proceedings are therefore, liable to be quashed and set aside.

3.4 The Ld. Adjudicating Authority has erred in failing to appreciate that test reports cited by department does not conform to the specifications of 'OR' coarse grade (-30+60 Mesh) and OR' Medium Garnet (-50+100 mesh) circulated by the canalizing agency, i.e. IREL vide letter No. IREL/CAN/MUM/2018-19 dated 28.12.2018 (copy enclosed) that were obtained under RTIA. According to this, guaranteed (Min.) percentage of Garnet in 'OR' coarse grade and 'OR' Medium

Garnet is 97.00% and 94% respectively. However, the test reports relied in the SCN does not report guaranteed percentage of Garnet.

3.5 The test reports issued by CRCL do not conform to the specifications of garnet contained in the following technical literature that was supplied/relied by none other than department.

i) Ullmann's Encyclopedia of Industrial Chemistry

ii) Kirk-Othmer Encyclopedia of Chemical Technology Volume 1.

iii) Geology.com

iv) Dama's Textbook of Mineralogy.

Sl. No. (i) to (iii) provided by the office of Ld. Adjudicating Authority to appellant & Sl. No. (iv) submitted by appellant to Ld. Adjudicating Authority.

3.6 The goods entered for export by appellant cannot be held as garnet owing to following:

i) The relied upon reports does not report "guaranteed garnet content" as against 94-97% prescribed by IREL;

ii) Specific gravity is not reported as against 4.11 prescribed by IREL.

iii) Density is reported by CRCL, New Delhi (not reported by Kandla laboratory) as 4.411 g/cm3 as against 2.32-2.40 t/m3 prescribed by IREL;

iv) Alumina content of goods is 55.7% as against the prescribed 20.5% (as per Dana's Textbook of Minerology) and 20.49 to 20.72% (as per National Gem Laboratory, Chennai).

v) Fe_2O_3 (Iron oxide) content of goods is 25.6% as against the prescribed 43.3% (as per Dana's Textbook of Minerology) and 36.37 to 43.40% (as per National Gem Laboratory, Chennai).

vi) SiO_2 (Silica) content is not reported as against the required 36.2% (as per Dana's Textbook of Minerology) and 36.21 to 37.39% (as per National Gem Laboratory, Chennai).

vii) Hardness of Almandine is 7-7.5 (as per Geology.com supplied by the office of Ld. Adjudicating Authority to appellant) whereas the test reports do not report this parameter.

3.7 That they have neither exported Garnet nor made any attempt to export Garnet. Hence, the impugned order for confiscation of goods by holding the goods to be Garnet and imposing redemption fine of Rs. 5.0 lakh and penalty of Rs. 20.0 lakh on appellant under Section 114 of Customs Act, 1962 is not tenable in the eyes of law.

3.8 In the case of Steel Authority of India Ltd. v/s Commissioner of Customs, Calcutta, 2001 (136) E.L.T. 316 (Tri-Kol), Hon'ble Tribunal has set aside penalty by observing that:

> "5. ..*The oft-quoted decision of the Supreme Court in Hindustan Steel Ltd. v. State of Orissa reported in AIR 1970 SC 253 is an authority for the proposition that no penalty should be imposed if there is a technical or venial breach of any statutory provision. Penalty could not ordinarily be imposed unless the party obliged was acting deliberately in defiance of law, or was guilty of conduct contumacious or dishonest or acted in conscious disregard of its obligation. Penalty will also not be imposed merely because it is lawful to do so. We rely on Akbar Badruddin Jewani reported in 1990 (47) E.L.T. 161 at 180 (S.C.), Jain Exports (P) Ltd. reported in 1990 (47) E.L.T. 213 (S.C.), D. Navinchandra & Co. reported in 1987(29) E.L.T. 492 (S.C.) and B. Vijoylaxmi reported in AIR 1987 SC 1794. The penalty is therefore, set aside in full.*"

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 17.03.2026 following the principles of natural justice wherein Shri Vikas Mehta, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully examined the records of the case, including the Show Cause Notice, the impugned order passed by the adjudicating authority, the remand directions, the test reports of CRCL Kandla and CRCL New Delhi, and the detailed submissions made by the Appellant along with the technical literature and IREL specifications relied upon. It is observed that the present appeal has been filed after a delay of 07 days beyond the prescribed period of limitation under Section 128(1) of the Customs Act, 1962.

5.1 I find that the Appellant has shown sufficient cause for the delay in filing the present appeal. Accordingly, in exercise of the powers conferred under the proviso to Section 128(1) of the Customs Act, 1962, the delay in filing the appeal is condoned.

5.2 Having condoned the delay, I proceed to decide the matter on merits. The central issue for determination is whether the goods exported by the Appellant can be conclusively held to be "Natural Garnet" classifiable under CTH 2513 2030 so as to attract the restriction under the relevant DGFT notification and consequential confiscation and penalty.

5.3 At the outset, I find that the entire case of the Department is founded upon the test reports of CRCL, particularly the report issued by CRCL New Delhi. In such a situation, it was incumbent upon the adjudicating authority to ensure that the Appellant was afforded a full and effective opportunity to contest the said reports. However, it is observed that despite specific requests made by the Appellant, neither the complete test records, including raw data, methodology and calibration details, were furnished, nor was the request for cross-examination of the Chemical Examiner acceded to. The adjudicating authority has rejected these requests without assigning cogent reasons and has proceeded to treat the test report as conclusive. This approach, in my considered view, is in clear violation of the principles of natural justice. When an expert report forms the sole basis of adverse findings, denial of the opportunity to test its correctness renders the proceedings vitiated and the findings unsustainable in law.

5.4 In this regard, I note that the adjudicating authority has placed reliance on the decision of the Hon'ble High Court of Madras in **Vishal Lubetech Corporation v. Additional Commissioner of Customs** to deny cross-examination. The Hon'ble High Court has observed that a Chemical Examiner, while issuing a laboratory report, performs a statutory function and is not a "witness" in the strict sense, and therefore cross-examination is not to be granted as a matter of course. While the said legal position is noted, it does not dispense with the requirement that the expert opinion itself must withstand judicial scrutiny. The Hon'ble Supreme Court in **State of H.P. v. Jai Lal - (1999) 7 SCC 280** has categorically held that an expert is not a witness of fact and that his opinion is merely advisory in nature, the evidentiary value of which depends upon the reasons furnished and the material data supporting the conclusion. Thus, even where cross-examination is not treated as an absolute right, an unreasoned or non-speaking expert opinion cannot be elevated to the status of conclusive evidence.

5.5 On merits, I find that the test report of CRCL Kandla itself is inconclusive, as the Chemical Examiner has categorically recorded that the exact identification of the sample could not be ascertained for want of crystallography/XRD facility. This necessitated forwarding of samples to CRCL New Delhi. However, the report of CRCL New Delhi, though concluding that the sample is "Natural Garnet (Almandine)," is found to be largely conclusory in nature. The report does not disclose the detailed analytical basis for such conclusion, nor does it provide quantitative mineralogical composition, percentage of garnet content, or correlation with standard specifications. It merely records the result without elaborating the parameters or benchmarks applied for classification. Further, several critical parameters which are essential for identification of garnet, such as silica content, hardness, and full compositional profile, have not been reported. In absence of these essential details, the report does not inspire sufficient confidence to be treated as determinative of the nature of goods.

5.6 I further find considerable merit in the contention of the Appellant that the test reports do not conform to the specifications prescribed by IREL, the designated canalizing agency for export of garnet. As per the material on record, IREL specifications require a minimum garnet content of 94% to 97% for recognized commercial grades. However, the CRCL report does not indicate the percentage of garnet present in the sample at all. Similarly, the reported chemical composition, particularly the levels of Al_2O_3 and Fe_2O_3, significantly deviates from the composition indicated in standard mineralogical literature such as Dana's Textbook of Mineralogy and other sources relied upon. The absence of any finding that garnet constitutes the predominant component of the sample is a crucial omission, as classification under CTH 2513 2030 would necessarily require the goods to be identifiable as garnet in a commercial and mineralogical sense. In the absence of such a finding, the classification adopted by the Department cannot be sustained.

5.7 The adjudicating authority has brushed aside the relevance of IREL specifications on the ground that they are not binding. This reasoning is not acceptable. IREL, being the State Trading Enterprise notified under the DGFT policy for garnet exports, plays a pivotal role in defining the scope and characteristics of goods falling within the restricted category. Its specifications are therefore highly relevant in determining whether a particular product qualifies as "garnet" for the purposes of export regulation. Ignoring such specifications results in an incomplete and legally flawed determination. Classification, particularly in cases involving mineral products, must be guided by predominance, trade understanding and recognized standards, none of which have been adequately addressed in the impugned order.

5.8 I also find that the invocation of DGFT restriction is not justified in the facts of the present case. The restriction applies to export of "garnet" as a mineral resource. However, the Department has failed to conclusively establish that the goods exported by the Appellant are garnet as understood in trade and industry. Mere presence of silicates of aluminium and iron cannot lead to an automatic conclusion that the goods are garnet, especially when the essential characteristics and composition of garnet are not demonstrated. In such circumstances, the application of restriction is based on assumption rather than evidence.

5.9 Coming to the allegation of misdeclaration, I find that the same is not substantiated by any independent evidence. The Appellant has declared the goods as "Natural Abrasive Grain" under CTH 2513 2090, which is a valid tariff entry. The dispute essentially revolves around classification based on technical analysis. It is a settled legal position that where classification is arguable or interpretational, the charge of misdeclaration cannot be sustained. There is nothing on record to indicate that the Appellant had deliberately suppressed or misrepresented the nature of goods with intent to evade any restriction. The conduct of the Appellant, including execution of test bond and declaration made to the Department, does not reflect any mala fide intent.

5.10 In view of the above findings, the confiscation of goods under Section 113(d) and 113(i) of the Customs Act, 1962 is also not sustainable. For invoking Section 113(d), the goods must be shown to be prohibited goods, which is not established in the present case. Similarly, Section 113(i) requires proof of misdeclaration, which, as discussed above, is not made out. Once the basis for confiscation fails, the imposition of redemption fine also cannot survive.

5.11 Consequently, the penalty imposed under Section 114 of the Customs Act is also liable to be set aside. Penalty under this provision requires an element of knowledge or intentional act leading to violation. In the present case, the dispute is purely technical and relates to classification based on laboratory analysis, and there is no evidence of deliberate defiance of law. It is well settled by judicial pronouncements, including the decision of the Hon'ble Supreme Court in Hindustan Steel Ltd. v. State of Orissa reported in AIR 1970 SC 253, that penalty cannot be imposed for mere technical or venial breach in the absence of contumacious conduct or mens rea. The ratio of these decisions squarely applies to the facts of the present case.

5.12 In light of the foregoing discussion, I am of the considered view that the Department has failed to conclusively establish that the goods exported by the Appellant are "Natural Garnet" classifiable under CTH 2513 2030. The reliance placed on the CRCL test reports is not sufficient to dislodge the classification declared by the Appellant, particularly in view of the deficiencies noted and the absence of corroborative evidence. Accordingly, the classification under CTH 2513 2090 as declared by the Appellant is held to be acceptable. The impugned order, therefore, cannot be sustained and is liable to be set aside. The confiscation of goods and the penalty imposed on the Appellant are also set aside.

6. The appeal is allowed with consequential relief, if any, in accordance with law.

सत्यापित/ATTESTED

अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-220/CUS/JMN/SEP/2025-26 Date: 08.04.2026

By Registered post A.D/E-Mail

To,
M/s R. K. Asia Resources, No. 13-7-17/ Golden Opulence, Poonamlle High Road, Chennai, Tamil Nadu – 600056

Copy to:
1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs (P), Jamnagar.
3. The Additional Commissioner of Customs (P), Jamnagar.
4. Guard File.