Government of India (भारत सरकार)
Department of Commerce (वाणिज्य विभाग)
Directorate General of Foreign Trade (विदेश व्यापार महानिदेशालय)
Vanijya Bhawan, New Delhi-110011
वाणिज्य भवन,नई दिल्ली

*****

01/92/180/52/AM26/PC6 /50

Date of Order: 03.11 .2026

Date of Dispatch: 03.11.2026

Name of the Applicant:	M/s Shangold India Ltd., Gj-20, SDF – 7, SEEPZ Special Economic Zone, Andheri East, Mumbai – 400 096.
IEC No.	2799000193
Order Appealed against:	Appeal against Order-in-Original dated 13.05.2025 passed by DC, SEEPZ-SEZ.
Order passed by:	**Shri Lav Agarwal** **Director General of Foreign Trade**

Order-in-Appeal

M/s Shangold India Ltd. (hereinafter referred to as the "Appellant"), a unit of the SEEPZ Special Economic Zone (SEEPZ-SEZ), was granted a Letter of Approval (LOA) dated 04.08.1999, as amended, by the Development Commissioner, SEEPZ-SEZ, for manufacturing of grading and assortment, percent value of FOB export 10KT gold findings 3 – semi precious jewellery with diamonds brass studded etc.

2. Vide Notification No. 101 (RE-2013)/2009-2014, dated the 5th December 2014, the Central Government has authorized the Director General of Foreign Trade, aided by one Addl. DGFT, to function as Appellate Authority against the orders passed by the Development Commissioner, Special Economic Zones, as Adjudicating Authority. Hence, the present Appeal is before me.

3. Brief History of the Case:

3.1 The Appellant, a unit of the SEEPZ Special Economic Zone (SEEPZ-SEZ), was granted the aforesaid Letter of Approval, and pursuant thereto executed a Bond-cum-Legal Undertaking (BLUT) in Form-H under Rule 22(1)(i) of the SEZ Rules, 2006 with the Development Commissioner, SEEPZ-SEZ.

3.2 Under Rule 22(3) read with Rule 54 of the SEZ Rules, 2006, and Condition No. 7 of the BLUT, the Appellant was required to submit Annual Performance Reports (APRs) within 180 days from the close of each financial year, duly certified by a Chartered Accountant. Condition No. 7 further stipulates that failure to submit such information within the stipulated time may result in withdrawal of the permission granted to the Unit for carrying out authorised operations and/or stoppage of further imports and sales in the DTA.

3.3 The Appellant failed to submit its APRs for financial years 2020-21 and 2021-22 within the prescribed period. The details of the defaults, as borne out by the record, are tabulated below:

Financial Year	Due Date	Actual Date of Submission	Delay (Days)
2020-21	31.12.2021	21.04.2022	109 days
2021-22	30.09.2022	02.01.2024	458 days

3.4 The matter was placed before the 197th meeting of the Unit Approval Committee (UAC), SEEPZ-SEZ, held on 24.03.2025, which directed the issuance of a Show Cause Notice for the delayed submission of the APRs.

3.5 Accordingly, SCN dated 03.04.2025 was issued to the Appellant by the Development Commissioner, SEEPZ-SEZ, calling upon it to show cause as to why penal action should not be taken under Section 11(2) of the Foreign Trade (Development & Regulation) Act, 1992 ("FT(D&R) Act") read with Rule 54(2) of the SEZ Rules, 2006.

3.6 In response, the Appellant filed a reply dated 16.04.2024 in which it cited the demise of the wife of one of its partners/Directors following a serious illness, and further stated that the Chartered Accountant appointed by it was suffering from cancer.

3.7 After considering the Appellant's reply and the personal hearing, the Development Commissioner, SEEPZ-SEZ, passed the Order-in-Original dated 13.05.2025, imposing a monetary penalty of Rs. 1,90,000/- (Rupees One Lakh Ninety Thousand Only) on the Appellant under

Section 11(2) of the FT(D&R) Act, 1992 read with Rule 54(2) of the SEZ Rules, 2006, for the delay in submission of the APRs for FY 2020-21 and FY 2021-22.

4. Aggrieved by the Order-in-Original dated 13.05.2025, the Appellant has preferred the present appeal under Section 15 of the FT (D&R) Act.

5. The following grounds have been urged in the appeal:

5.1 That its Chartered Accountant, Mrs. Malvika Mitra, was unable to complete the work on time as she was suffering from cancer (and later passed away);

5.2 That the concurrent serious illness and subsequent demise (in 2023) of the wife of its Director, Shri Rajeev Pandya, caused further disruption;

5.3 That a new Chartered Accountant has since been appointed;

5.4 That there was no wilful default on the part of the Appellant, nor has it derived any undue advantage from the delay, having already achieved the mandated Net Foreign Exchange (NFE) earnings; and

5.5 That the delay is purely a technical violation which merits condonation, and that the penalty be waived.

6. The Development Commissioner, SEEPZ-SEZ (the "Respondent"), filed detailed written comments opposing the appeal and praying that it be dismissed and the Order-in-Original be upheld. The Respondent's submissions, briefly stated, are:

6.1 That the obligation to file APRs within the stipulated period is a clear statutory and contractual obligation binding on the Unit under the SEZ Rules, 2006 and the BLUT, and failure to comply with it constitutes a well-established contravention;

6.2 That the hardships cited by the Appellant pertaining to unfortunate demise of director's spouse happened in mid 2023 which was way after the deadlines for filing the APRs for 2020-21 and 2021-22. Accordingly, the reasons cited do not justify the prolonged delay.

6.3 That penalties for violation of statutory rules do not require proof of mens rea and serve as a deterrent, relying upon the Supreme Court's judgment in Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 SCC 361];

6.4 That the Appellant's contention that delay does not amount to a violation is specifically contested, as non-submission of APRs obstructs regulatory oversight of exports and imports and amounts to operating in contravention of law within the meaning of Section 11(2) of the FT(D&R) Act, 1992; and that the DGFT's own precedent in the matter of M/s M.D. Equipment Pvt. Ltd.

(OIA F.No. 01/92/180/67/AM-24/PC-6 dated 03.01.2025) upholds the imposition of penalty for delayed APR filing.

7. The parties were granted a personal hearing in the matter on 10.09.2026 at 04:00 PMthrough video conferencing. Shri Rajeev Shankar Pandya, Director, appeared on behalf of the Appellant, Dr. Sandeep Bhosle, DDC, SEEPZ from the office of the Development Commissioner, SEEPZ-SEZ, appeared on behalf of the Respondent.

8. During the hearing, the Appellant reiterated the mitigating circumstances set out in its reply to the SCN and in the grounds of appeal, in particular the COVID-19 related disruption, the illness and subsequent demise of its Chartered Accountant, and the illness and demise of the wife of its Director, and submitted that the APRs now stand filed and that a new Chartered Accountant has been appointed to ensure timely compliance in future.

9. Observations and Findings

9.1 The obligation to submit Annual Performance Reports under Rule 22(3) read with Rule 54 of the SEZ Rules, 2006, and Condition No. 7 of the Bond-cum-Legal Undertaking, is not a mere administrative formality but a foundational obligation that sustains the regulatory architecture of Special Economic Zones. The delays in submission of the APRs for FY 2020-21 (109 days) and FY 2021-22 (458 days) are borne out by the record and are not disputed by the Appellant, which has sought only condonation on account of the circumstances pleaded.

9.2 This Authority is, therefore, in agreement with the finding recorded in the Order-in-Original that the Appellant has violated the provisions of Rule 22(3) read with Rule 54 of the SEZ Rules, 2006 and Condition No. 7 of the Bond-cum-Legal Undertaking, and is liable for penal action under Section 11(2) of the FT(D&R) Act, 1992 read with Rule 54(2) of the SEZ Rules, 2006.

9.3 The plea that the delay is merely technical and that no penalty is warranted since the Appellant has achieved the mandated NFE is equally without merit. The achievement of NFE is a distinct obligation and does not dispense with the independent obligation to submit APRs within the stipulated time, which enables the regulatory authorities to oversee the unit's exports, imports and overall performance. The obligation existed under the SEZ Rules and the BLUT well before the defaults occurred, and the Order-in-Original shows that the Adjudicating Authority duly considered the Appellant's reply before imposing the penalty.

9.4 The question that remains for consideration is whether the quantum of penalty of Rs. 1,90,000/- imposed by the Order-in-Original is appropriate, or whether it warrants modification in

the exercise of appellate jurisdiction. The power to impose penalty under Section 11(2) of the FT(D&R) Act, 1992 is a discretionary power, the exercise of which must be guided by the principle of proportionality, having regard to the gravity of the violation, the conduct of the noticee, the degree of culpability, and all other relevant circumstances.

9.5 This Authority has given careful consideration to the personal hardship pleaded by the Appellant, namely, the illness of its Chartered Accountant, the illness and demise in 2023 of the wife of its Director, Shri Rajeev Pandya, and the disruption caused by the COVID-19 lockdown, during the period in which the APRs for FY 2020-21 and FY 2021-22 fell due and were delayed. Having regard to the genuineness of the hardship pleaded, this Authority considers it appropriate to extend a measure of relief in the present case.

9.6 In these circumstances, and balancing the need to uphold the sanctity of the statutory obligation to file APRs in a timely manner against the genuine personal hardship pleaded by the Appellant, this Authority is of the view that the penalty of Rs. 1,90,000/- imposed by the Adjudicating Authority warrants modification, and that a reduction to one-half of the said amount would meet the ends of justice.

Order

01/92/180/52/AM26/PC6/50 **Dated:** 03.11.**2026**

For the reasons set out herein above, the appeal filed by M/s Shangold India Ltd. against Order-in-Original dated 13.05.2025 is partly allowed. The penalty of Rs. 1,90,000/- (Rupees One Lakh Ninety Thousand Only) imposed on M/s Shangold India Ltd. vide the impugned Order-in-Original is hereby modified and reduced to Rs. 95,000/- (Rupees Ninety Five Thousand Only).

The appeal stands disposed of in the above terms.

(Lav Agarwal)

Director General of Foreign Trade

Copy To:

1. M/s Shangold India Ltd., Gj-20, SDF – 7, SEEPZ Special Economic Zone, Andheri East, Mumbai – 400 096.

2. The Development Commissioner, SEEPZ-SEZ, Andheri East, Mumbai – 400 096. The Development Commissioner is requested to ensure compliance with this Order.

3. DGFT's Website.

(Sumit Verma)

Deputy Director General of Foreign Trade