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

01/92/180/61/AM18/PC-6/CC/36

Date of Order: 21.7.2026

Date of Dispatch: 21.7.2026

Name of the Applicant:	M/s International Research Park Laboratories Limited 4, Community Centre, New Friends Colony, New Delhi – 110065
Order in compliance with:	Order dated 13.01.2025 passed in W.P.(C) 7863/2017 by Hon'ble Delhi High Court, directing de novo adjudication
Order passed by:	**Shri Lav Agarwal** **Director General of Foreign Trade**

Order-in-Appeal

M/s International Research Park Laboratories Limited (hereinafter referred to as the 'Firm'), having its registered office at 4, Community Centre, New Friends Colony, New Delhi – 110065, has approached the Hon'ble High Court of Delhi through Writ Petition (C) No. 7863 of 2017 in which the Hon'ble High Court of Delhi vide Order dated 13.01.2025 directed this directorate to decide the matter de novo.In compliance with the order the firm filed a representation before DGFT to be decided.

2. The firm was issued a Letter of Intent (LOI) bearing No. LI:923(85)/EO.No.68(85)-IL dated 06.08.1985 by the Secretariat for Industrial Approvals (SIA), Department of Industrial Development, Ministry of Industry and Company Affairs, Government of India. The LOI

permitted the Firm originally incorporated as M/s Indo-Euro Chemical Services Limited to set up a new 100% Export Oriented Unit (EOU) at Plot No. 152-A/153, Road No. 25, Wagle Industrial Estate, Thane, Maharashtra.

3. By letter bearing No. E.O.68(85)-IL/MUCC dated 14.10.1985, the SIA further accorded permission for the import of finished goods and re-export of the same after repacking and labelling during the initial gestation period of one year, subject to the condition that the value addition during this period would not be less than 20%. The Firm set up its bonded factory at the aforesaid plot and obtained a Customs Warehouse Licence bearing No. S/15-34/85/86 B dated 15.11.1985 under Section 58 of the Customs Act, 1962, and was also granted permission for manufacturing under bond vide letter dated 06.12.1985 under Section 65 of the Customs Act, 1962.

4. The validity of the LOI was extended on multiple occasions. By letter dated 29.04.1987, the Ministry of Industry extended the LOI up to 08.04.1995 subject to modified conditions, including a requirement that value addition shall be a minimum of 20%. A further extension was granted by letter dated 07.04.1989 with further modifications. By letter dated 02.11.1989, the Ministry enhanced the value of permissible capital goods imports from Rs. 25 lakhs to Rs. 35,08,131/-.

5. The LOI was eventually converted into an Industrial Licence bearing No. CIL:184(91) dated 12.09.1991. An EOU factory was set up at Plot No. G-2, Badlapur Industrial Estate, MIDC, Thane, Maharashtra, and a Customs Warehouse Licence under Section 58 of the Customs Act, 1962 was granted. The Industrial Licence imposed the following additional and modified conditions, inter alia:

5.1 New Industrial Undertaking for manufacture of assorted cosmetics, perfumery and toiletry products;

5.2 The new industrial undertaking shall be completed by 11.08.1993;

5.3 Aggregate value of exports in first five years should be limited to a ceiling of Rs. 30 to 35 crores;

5.4 The company shall export not less than 20% of the ex-factory value of production to GCA countries every year;

5.5 The company shall not carry on the operations of importing goods, repacking and labelling any more; and

5.6 Value Addition (VA) to be achieved shall not be less than 30%, taking into consideration the formula prescribed for it.

6. The Development Commissioner, Santacruz Electronics Export Processing Zone (SEEPZ), Bombay, vide letter dated 09.03.1994 (confirmed and reiterated by letter dated 17.01.1996), addressed to the Ministry of Industry, reported the following violations alleged to have been committed by the Firm:

6.1 Non-fulfillment of minimum value addition: During 1985-86, the unit's value addition was stated to be only 8.40% as against the stipulated 20%, on the basis that the total import value included capital goods (Rs. 3,08,131/-), finished goods (Rs. 5,69,00,000/-) and consumables (Rs. 1,21,73,788/-), aggregating to Rs. 6,93,81,919/-, against export value of Rs. 7,54,77,500/- in 1985-86;

6.2 Unauthorised export of indigenous Emami brand goods: From 1988-89 to 1991-92, the unit procured indigenous finished goods of the Emami brand from domestic sources and exported the same to Gulf countries on a trial basis, without seeking permission for such activity from SIA. SEEPZ held that the unit could not take credit as an EOU for such unauthorised exports towards discharge of its export obligations;

6.3 Cessation of activity from 1992-93: The Firm had not made any imports or exports from 1992-93 onwards, as confirmed by the Firm itself, attributing this to the disintegration of the USSR; and

6.4 No manufacturing activity and violation of Industrial Licence conditions: The Firm failed to carry out any manufacturing activity, failed to complete the industrial undertaking by 11.08.1993, failed to export to GCA countries, continued repacking/labelling operations instead of manufacturing, and failed to achieve the 30% value addition prescribed under the Industrial Licence, thus violating conditions (c), (d), (e) and (f) of the Industrial Licence dated 12.09.1991.

7. Based on the SEEPZ report and on the basis of material on record, a Show Cause Notice (hereinafter 'SCN') bearing No. 3/4-5/95-96/ECA-II dated 31.08.1995 was issued to the Firm by the Additional Director General of Foreign Trade (ADGFT) under Section 4-L of the Imports and Exports (Control) Act, 1947, for action under Section 4-I thereof, and under Clause 10 for action under Clause 8 of the Imports (Control) Order, 1955 read with Section 20(2) of the Foreign Trade (Development & Regulation) Act, 1992.

8. Personal hearings were scheduled by the ADGFT on 13.10.1995, 28.11.1995, 18.03.1996 and 18.05.1996.The Firm did not appear on any of these dates, each time seeking adjournment on various grounds. No written reply to the SCN was submitted by the Firm. Accordingly, the ADGFT proceeded ex-parte and passed Order-in-Original bearing No. 3/45/95-96/ECA-II/458 dated 28.09.1996 (hereinafter 'OIO'), holding the Firm guilty of contravening Section 4-I of the Imports and Exports (Control) Act, 1947 read with Section 20(2) of the Foreign Trade (Development & Regulation) Act, 1992, and imposing a fiscal penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only) on the Firm.

9. The firm filed W.P. No. 6353/2012 before the Hon'ble Delhi High Court. The Hon'ble Court, by order dated 24.11.2014, set aside the order dated 28.09.1996, and remanded the appeal to the Appellate Authority for fresh consideration in accordance with law.

10. On remand, the Appellate Authority conducted a Personal Hearing. By Order dated 14.03.2017, the DGFT (Appellate Authority), while noting that the matter was very old and many records were unavailable, upheld the OIO dated 28.09.1996, recording inter alia that: (i) the Firm had availed of duty-free import of capital goods with the condition of undertaking export, which had not been fulfilled; (ii) there was no scope for reducing the penalty; and (iii) the Firm was accordingly a defaulter.

11. Aggrieved by the order dated 14.03.2017 and the OIO dated 28.09.1996, the Firm filed W.P.(C) 7863/2017 before the Hon'ble Delhi High Court. Simultaneously, matters also proceeded before the CESTAT, Mumbai in Customs Appeal No. 245 of 2010, arising from a separate Show Cause Notice dated 13.04.2000 issued by the Commissioner of Central Excise & Customs, Mumbai III, under the Customs Act, 1962.

12. The Hon'ble Delhi High Court, by its order dated 13.01.2025 in W.P.(C) 7863/2017, set aside both the Appellate Authority's order dated 14.03.2017 and the OIO dated 28.09.1996.

13. The Hon'ble Court directed DGFT to grant a fresh personal hearing to the Firm, and to pass a Speaking Order within 12 weeks of the conclusion of the hearing. The proceedings before this Authority are de novo proceedings pursuant to this direction.

14. In compliance with the Hon'ble Court's directions, The Firm filed a Representation before DGFT. Personal hearing was held on 28.04.2026. The Firm's authorised representatives also filed a Brief Note reiterating and supplementing their written and oral submissions.

15. The principal contentions advanced are summarised below:

15.1 Compliance with value addition for 1985-87: The Firm contends that for the gestation period 1985-86 and the subsequent period 1986-87, the Firm fully complied with the minimum 20% value addition condition under the LOI. Three contracts were executed with the USSR Corporation Contract No. 27/561001 dated 17.06.1985, Contract No. 27/561183 dated23.09.1985, and Contract No. 27/661250 dated 10.01.1986. Finished goods were imported under three Bills of Entry (No. 2756 dated 15.11.1985, No. A1195 dated 01.12.1985, and No. 1640 dated 25.07.1986), repacked and relabelled under Customs supervision, and exported to the USSR. Value additions of 22.96%, 23.10% and 23.01% were achieved on the three contracts respectively, each exceeding the 20% threshold.

15.2 Erroneous calculation by SEEPZ/auditors: The allegation of only 8.40% value addition in 1985-86 was based on an erroneous inclusion of consumables valued at Rs. 1,21,73,788/- as a separate head of imports, in addition to the finished goods CIF value of Rs. 5,69,00,000/-. These consumables comprising cartons, liners, labels, flacons, caps, tassels, pouches, and film were not separately imported but were part of Invoice No. 5531 dated 01.07.1986, already embedded within the CIF value of the Bill of Entry. The Commissioner of Central Excise,Thane, vide his letter dated 23.08.2004 to Member (Customs), CBEC, specifically acknowledged this error and confirmed that after excluding this amount, value addition exceeded 20%.

15.3 Force majeure due to USSR disintegration: The Firm contends that the disintegration of the USSR in 1990-91 was a supervening impossibility and force majeure event entirely beyond the Firm's control. The Firm had signed an agreement for supply worth Rs. 10.02 crores with the USSR in November 1990 for supplies to commence in the first quarter of 1991. TheUSSR's disintegration rendered this contract impossible to perform. Despite best efforts, theFirm was unable to procure export orders from the newly independent successor states, which were characterised by uncertain political and economic conditions.

15.4 Good faith efforts: The Firm submits that the promoters of the Firm made sincere efforts from 1985 onwards: they obtained the LOI, set up customs-bonded premises, established collaborative arrangements with Estee Lauder, imported capital goods, constructed the factory at Badlapur MIDC, and entered into export contracts. Multiple extensions of the LOI/Industrial Licence were granted by the Government of India from time to time, which the Firm contends is itself evidence that the Government was satisfied with the bona fide progress of the project.

15.5 CESTAT order as conclusive: The Firm contends that the CESTAT Order dated 12.08.2022 has conclusively settled the question of value addition in favour of the Firm, and that the DGFT proceedings arising from the same set of facts and transactions should be viewed in light of this binding determination. The Firm submits that the basic factual foundation of the DGFT action (non-fulfillment of value addition and export obligation for 1985-86) has been authoritatively resolved.

15.6 Limited scope of present proceedings: The Firm contends that the HC's directions in its order dated 13.01.2025, read alongside the CESTAT order, confine the present DGFT proceedings to the question of debonding of the bonded factory and re-fixation of any tax liability arising therefrom. A fresh adjudication of the penalty is urged to be unwarranted.

<u>FINDINGS AND ANALYSIS</u>

16. <u>Preliminary Issue: CESTAT Proceedings vis-à-vis DGFT Proceedings</u>

16.1 Before examining the merits, this Authority finds it necessary to address a foundational legal question: the Firm has drawn a parallel between the CESTAT proceedings under the Customs Act, 1962, and the present proceedings under the Foreign Trade (Development & Regulation) Act, 1992, and urges that the CESTAT's findings bind, or significantly restrict, this Authority's jurisdiction in the present proceedings. For the reasons set out below, this submission is specifically rejected.

16.2 The two sets of proceedings arise from entirely distinct statutory frameworks and operate on different legal planes:

16.2.1 The CESTAT proceedings arose from the Show Cause Notice dated 13.04.2000 issued by the Commissioner of Central Excise &Customs, Mumbai III, under the Customs Act,

1962. The Customs Act is a fiscal statute concerning the levy of customs duty on goods imported into India. The CESTAT's jurisdiction under Section 129A of the Customs Act is appellate jurisdiction over orders relating to levy of duty, penalties, confiscation, and allied matters under that Act. The CESTAT's mandate was to determine whether the conditions of the Customs exemption Notification No. 13/81-Cus had been fulfilled, and whether customs duty was leviable on the imported goods. The legal question before the CESTAT was a fiscal one: whether duty was owed to the Government of India under the Customs Act.

16.2.2 The present DGFT proceedings arise from the Show Cause Notice dated 31.08.1995 issued under Section 4-L of the Imports and Exports (Control) Act, 1947 read with Section 20(2) of the Foreign Trade (Development & Regulation) Act, 1992. The FT(D&R) Act is a trade regulatory statute. The DGFT's jurisdiction under the FT(D&R) Act is over violations of trade policy, the conditions of import/export authorisations and schemes such as the EOU scheme, and the imposition of regulatory penalties and trade restrictions there under. The legal question before this Authority is a regulatory one: whether the Firm violated the conditions of its LOI/EOU authorisation and the applicable trade policy, warranting regulatory consequences.

16.2.3 The two proceedings have different origins (different SCNs, different issuing authorities, different statutory provisions), different adjudicating forums, different remedies, and different legal consequences. A finding in one set of proceedings by virtue of the very different subject matter and statutory context does not operate as res judicata, issue estoppel, or any form of constructive bar on proceedings in the other forum. It is a settled principle of administrative law that the doctrines of res judicata and issue estoppel do not operate inter-forum in the same manner as in civil proceedings, particularly when the subject matter, the parties, and the legal question are not identical.

16.2.4 The CESTAT examined whether customs duty under the Customs Act, 1962, was leviable on the imported goods essentially a question of fiscal liability. This Authority examines whether the Firm violated the conditions of its EOU authorisation under the trade policy/FT(D&R) Act framework a question of regulatory compliance. These are different questions with different legal standards and different legal consequences. A finding that no customs duty is owed (because, for instance, goods were re-exported with sufficient value addition) does not automatically mean that no regulatory violation occurred under the EOU scheme for export obligations.

16.2.5 Furthermore, the Hon'ble Delhi High Court's order dated 13.01.2025, which directed these de novo proceedings, was passed after the CESTAT Order dated 12.08.2022 had been passed and was specifically relied upon before the Court. If the CESTAT order had foreclosed or fully resolved the DGFT matter, the Hon'ble Court would not have directed de novo proceedings before DGFT at all. The Court's direction to DGFT to conduct a fresh hearing and pass a Speaking Order necessarily implies the continued subsistence of DGFT's jurisdiction and the unresolved nature of the regulatory question before this Authority. This Authority therefore proceeds to examine the merits independently.

17. On Value Addition for the 1985-87 Gestation Period

17.1 The LOI dated 06.08.1985, read with the permission dated 14.10.1985, permitted the Firm to import finished goods and re-export the same after repacking and labelling during the gestation period of one year, provided value addition was not less than 20%. The Firm imported finished goods under three Bills of Entry No. 2756 dated 15.11.1985, No. A1195 dated 01.12.1985, and No. 1640 dated 25.07.1986 with a total CIF value of Rs. 7,57,30,111/-. Additionally, capital goods (labelling machine, strand carton wrapping machine, embossing machine) were imported vide Bill of Entry No. 1481, CIF value Rs. 3,08,131/-. The imported goods were repacked and relabelled under Customs supervision at the bonded warehouse and exported to the USSR pursuant to the three contracts with the USSR Corporation.

17.2 The SEEPZ report dated 09.03.1994/17.01.1996 alleged that value addition in 1985-86 was only 8.40%, arriving at this figure by including consumables valued at Rs. 1,21,73,788/- as a separate and additional import, thus computing total imports as Rs. 6,93,81,919/- (capital goods Rs. 3,08,131/- + finished goods Rs. 5,69,00,000/- + consumables Rs. 1,21,73,788/-) against exports of Rs. 7,54,77,500/-.

17.3 The correctness of this calculation is directly addressed by the letter dated 23.08.2004 from theCommissioner of Central Excise, Thane-I, to the Member (Customs), CBEC. The Commissionerexamined the actual Bills of Entry and records and found that:

17.3.1 The consumables of Rs. 1,21,73,788/- comprised items such as cartons, liners, labels for compact and carton/carrier, flacons of glass, caps (metal), tassels, pouches (textile), set of boxes and carriers, and film wrap;

17.3.2 These consumables formed part of Invoice No. 5531 dated 01.07.1986 and were covered by Bill of Entry No. 814 dated 04.08.1986 relating to goods imported against Invoice No. 5034 dated 27.06.1986/No. 5531 dated 01.07.1986, with a total value of USD 1,518,832.88;

17.3.3 The said consumables were therefore already included within the CIF value of the three Bills of Entry for finished goods. They were NOT separately imported as an additional item but were part of the same imported consignment; and

17.3.4 The Audit's proposition that the EOU had imported consumables valued at Rs. 1,21,73,788/- in addition to imports of Rs. 5,69,00,000/- on Bills of Entry was therefore erroneous. After excluding this erroneous amount, the value addition was above the minimum limit of 20% for 1985-86. Since value addition was 22%, the EOU had complied with the conditions prescribed by the Ministry of Industry.

17.4. This Authority accepts the above factual finding, corroborated by two separate and credible sources (i) the Commissioner of Central Excise, Thane's letter dated 23.08.2004 addressed to the Member (Customs), CBEC, which, after examining the actual Bills of Entry, acknowledged the audit error and confirmed value addition above 20%; and (ii) the CESTAT Order No. A/85712/2022 dated 12.08.2022. Though the CESTAT's finding operates in a different statutory domain and does not bind this Authority in the regulatory context, its independent corroboration of the same factual conclusion lends further weight to the acceptance of value addition compliance for this period.

17.5 Accordingly, the SCN allegation of non-compliance with value addition for the period 1985-87 is not sustained. The Firm is held to have complied with the minimum value addition condition for this period.

(i) **<u>On Post-1987 Violations</u>**

18. The findings in paras above, however, are limited to the narrow question of value addition during the gestation period 1985-87. They do not operate to discharge the full scope of the firms obligations under the LOI and the Industrial Licence, nor do they address the distinct

and independent violations committed for the post-1987 period. These violations are now examined on their own merits.

Unauthorised Export of Indigenous Emami Brand Goods (1988-89 to 1991-92)

19. SEEPZ has specifically reported that from 1988-89 to 1991-92, the Firm procured Indigenous finished goods of the Emami brand from domestic sources and exported the same to Gulf countrieswithout seeking permission from SIA. The Firm has not disputed this factual position in its Representation. The Representation is conspicuously silent on this allegation, offering no rebuttal, no documentation to the contrary, and no explanation for this activity.

20. The conditions of the LOI dated 06.08.1985 specifically required the Firm to operate as a 100% EOU for the manufacture and export of assorted cosmetics, perfumery and toiletry products. The permission dated 14.10.1985 specifically confined the gestation-period activity to import of finished goods and re-export after repacking/relabelling - an activity limited to oneyear. The LOI did not permit the Firm to procure goods from domestic sources and export themas part of its EOU obligations without SIA's express permission. Exporting indigenous Emamibrand goods, goods having no connection with the Firm's authorised manufacturing activity or its LOI without SIA's prior approval is a clear violation of the fundamental conditions of the EOU scheme.

21. SEEPZ has correctly held that such exports cannot be counted towards the Firm's export obligation under the LOI. A 100% EOU is a specific scheme premised on value addition through the manufacturing process using imported inputs. Sourcing domestic goods and exporting them does not constitute EOU-eligible export activity and defeats the very purpose of the scheme. The violation is established and undisputed.

(ii) **Complete Cessation of Manufacturing and Export Activity (1992-93 Onwards)**

22. The Firm's own Representation explicitly acknowledges that from 1992-93 onwards, itmade no imports and no exports. This is an unambiguous admission of non-fulfillment of thecore export obligation under the LOI/Industrial Licence. The Firm attributes this entirely to the disintegration of the USSR in 1990-91. This Authority recognises that the USSR's disintegration was an external and unforeseen event. However, this acknowledgment does not translate into an unconditional legal excuse for the following reasons:

22.1 The Firm's export obligation was not exclusively tied to the USSR. The LOI required 100% export of production. The Industrial Licence dated 12.09.1991 required export to GCA countries. The Firm made no effort to explore, identify or secure export orders from any other market, whether the post-USSR successor states, other countries in Eastern Europe, Asia, the Middle East, or elsewhere, over the entire period from 1992 to 1996. The Firm's total exporthorizon was apparently limited to the USSR alone, despite operating in the global cosmeticsmarket with a world-renowned collaborator (Estee Lauder).

22.2 The LOI was in force till at least 11.09.1995 and the Industrial Licence was extended upto 11.09.1996, over five years after the USSR's disintegration. During this entire period, the Firm undertook no manufacturing, made no exports, and produced no evidence of any meaningful commercial activity. Multiple extensions of the licence were obtained, but no tangible steps towards export even one shipment were taken.

22.3 A force majeure or supervening impossibility argument may excuse non-performance for the immediate period of the disrupting event. It cannot, however, excuse a unilateral decision to remain commercially dormant for five or more years while continuing to hold the LOI/Industrial Licence and, critically, while capital goods imported duty-free remained in the bonded warehouse without any manufacturing use.

22.4 The Firm's own Representation acknowledges it had made 'constant efforts' to procure business from the newly formed CIS states but was unable to do so 'due to uncertain political and economic policies then prevailing.' This is an admission that even for the CIS successor states, no actual export business materialised. There is no evidence of any approach to markets beyond the erstwhile USSR. An EOU with a globally respected collaborator like Estee Lauder, operatingin the high-value cosmetics and perfumery sector, cannot credibly claim that export was impossible solely due to the USSR's collapse.

(iii) **Violation of Industrial Licence Conditions**

23. The Industrial Licence dated 12.09.1991 imposed specific conditions each of which was violated by the firm:

The Firm failed to complete the industrial undertaking by 11.08.1993. No manufacturing activity commenced. The factory at Badlapur remained inactive. No exports were made from the Badlapur unit whatsoever. The Firm is thus in breach of condition (c) not by exceeding the ceiling but by achieving nil exports.No evidence of any export to GCA countries has been placed on record.No manufacturing activity was ever undertaken post-1987, and therefore no value addition of 30% (or any amount) was achieved.

24. These violations are established from the Firm's own admissions and from the SEEPZ reports. The Firm has not contested these factual findings in its Representation; its defence is essentially limited to attributing the violations to the USSR's disintegration and to the CESTAT's finding on value addition. As held above, neither ground operates to excuse the post-1987 violations.

(iv) **On the Question of Penalty**

25. Having established the violations for the post-1987 period, this Authority now considers the question of imposition of penalty.

26. The object of the EOU scheme is to boost India's export earnings by providing duty-free import facilities to units that commit to export 100% of their production with value addition. This is a fiscal concession granted in the national interest of augmenting foreign exchange earnings. When a Firm obtains duty-free imports of capital goods and finished goods under this scheme, it does so on the solemn undertaking that it will fulfill the export obligation. The breach of this undertaking particularly a prolonged, admitted, and total breach is a serious violation that strikes at the very foundation of the scheme.

27. The material facts relevant to penalty are:

27.1 The Firm imported finished goods worth Rs. 7.57 crores duty-free under the LOI/EOU scheme for the gestation period and fulfilled this specific obligation for 1985-87. This is a mitigating factor.

27.2 The Firm procured and exported indigenous goods (Emami brand) from 1988-89 to 1991-92 without SIA permission an unauthorised activity that cannot be credited as EOU export and constitutes a deliberate circumvention of the scheme's conditions.

27.3 From 1992-93, the Firm totally ceased all manufacturing and export activity for over threeyears during the currency of the LOI/Industrial Licence, without fulfilling its obligations.

27.4 The Firm failed to undertake any manufacturing activity throughout its existence as an EOU, in violation of the specific conditions of the Industrial Licence.

27.5 Despite the LOI/Industrial Licence being extended multiple times by the Government including conversion to an Industrial Licence in 1991 the Firm made no productive use of these extensions.

28. The Firm's argument that the penalty should be set aside on the grounds of force majeure (USSR disintegration) is not accepted as a complete defence for the reasons stated above. While the USSR's disintegration is acknowledged as a significant external disruption and as a mitigating circumstance for the period immediately following 1990-91, it does not excuse:
(a) the unauthorised Emami brand exports (1988-89 to 1991-92), which preceded the USSR's collapse; (b) the Firm's total inactivity for the extended period 1992-1996 without exploring alternative markets; or (c) the fundamental failure to ever establish manufacturing operations as required by the Industrial Licence.

29. The Firm's contention that Government extensions of the LOI/Industrial Licence over the years demonstrate 'Government satisfaction' with its bona fides is not accepted in the sense urged. Extensions of validity are procedural/administrative acts that do not operate to waive the conditions of the LOI or to condone violations. The Government's extensions served to give the Firm additional time to fulfill its obligations time which the Firm failed to utilize productively.

30. Having regard to the totality of the evidence and submissions, I hold that the violations ofThefirm for the post-1987 period are established in law and on facts. The imposition of aregulatory penalty under the Foreign Trade (Development & Regulation) Act, 1992, iswarranted. While the partial compliance for the 1985-87 period is taken into account as a mitigating factor, it does not extinguish the liability arising from the post-1987 violations, which are independently established.

Order

Dated: 2026

01/92/180/61/AM18/PC-6/CC

After a thorough examination of all the material on record, the applicable statutory provisions, the SEEPZ communications dated 09.03.1994 and 17.01.1996, the history of the LOI and

Industrial Licence, the Representation and Brief Note of the firm, the oral and written submissions, and all relevant judicial/quasi-judicial orders, I record the following findings and pass this Order:

(i) For the period 1985-87 (gestation period): The allegation of non-compliance with the minimum 20% value addition condition for the three contracts executed during the gestation period is not sustained for the reasons stated above.

(ii) For the post-1987 period: The following violations are established and upheld:

(A) Unauthorised export of indigenous Emami brand finished goods to Gulf countries from 1988-89 to 1991-92 without SIA permission, in violation of the conditions of the LOI and the EOU scheme. Such exports cannot be credited towards the firm's export obligation.

(B) Complete cessation of all manufacturing and export activity from 1992-93 onwards, as admitted by the firm itself, constituting non-fulfillment of the core export obligation for the post-1991 period under the LOI/Industrial Licence.

(C) Violation of conditions of the Industrial Licence dated 12.09.1991, failure to complete the industrial undertaking by 11.08.1993, failure to achieve the export ceiling, failure to export to GCA countries, continuation of the LOI in complete inactivity, and failure to achieve 30% value addition.

(D) Penalty: In view of the established violations for the post-1987 period, a fiscal penalty is warranted in law. Accordingly, I hereby confirm and reaffirm a fiscal penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only) on M/s International Research Park Laboratories Limited, in exercise of the powers vested under the applicable provisions of the Imports and Exports (Control) Act, 1947 read with Section 20(2) of the Foreign Trade (Development & Regulation) Act, 1992, for the violations of the conditions of the LOI dated 06.08.1985 and the Industrial Licence dated 12.09.1991.

(E) The setting aside of the allegation relating to non-achievement of 20% value addition during the gestation period does not materially dilute the gravity of the remaining violations. The penalty was imposed for the overall breach of the conditions governing the EOU, and the unauthorised exports, complete cessation of manufacturing and export activity, and non-compliance with the Industrial Licence constitute independent and substantive violations.

(F) The violations continued over several years despite repeated extensions granted to the Firm to enable it to fulfil its obligations. The Firm neither established the contemplated manufacturing operations nor achieved any exports under the Industrial Licence, while also undertaking activities outside the scope of the permission granted. The defaults were, therefore, neither isolated nor merely technical in nature.

(G) Considering the nature, duration and cumulative effect of the established violations, the penalty of Rs. 50,00,000/- is found to be commensurate with the gravity of the defaults and necessary to uphold the integrity of the EOU framework. The mitigating circumstances relating to the gestation-period value addition and the disruption caused by the disintegration of the USSR have been duly considered; however, they do not justify any reduction in the penalty for the independent post-1987 violations.

In view of the above the Order-in-Original dated 28.09.1996 is modified to the following extent that the finding that the firm failed to achieve 20% value addition in 1985–86 is set aside as not established on record. The finding of non-fulfilment of Export Obligation for the post-1987 period and the violation of Industrial Licence conditions stands confirmed.

The penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs) imposed under the Order-in-Original dated 28.09.1996 is sustained.

This Order is without prejudice to any other action that may be taken under any other law or regulation in force.

(Lav Agarwal)
Director-General of Foreign Trade

Copy To:

1. M/s International Research Park Laboratories Ltd., 4, Community Centre, New Friends Colony, New Delhi – 110 065.

3. Development Commissioner, SEEPZ SEZ, Santacruz, Mumbai — for information.

4. DGFT's Website

(Sumit Verma)
Deputy Director General of Foreign Trade