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

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**01/92/180/39/AM26/PC6**

Date of Order: 22.06 .2026

Date of Dispatch: 22.06 .2026

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| Name of the Applicant: | M/s Medgel Pvt. Ltd.,<br>Survey No. 289, Block No. 11,<br>Pithampur, Distt. Dhar – 454774 |
| IEC No. | 1107002826 |
| Order Appealed against: | Appeal against Order-in-Original F. No. C-21/SEZ/Proj./ 2006-07/158 dated 09.05.2025 passed by DC, Indore SEZ |
| Order passed by: | **Shri Lav Agarwal**<br>**Director General of Foreign Trade** |

## Order-in-Appeal

M/s Medgel Pvt. Ltd. (hereinafter the 'Appellant') was granted approval under the SEZ Scheme vide Letter of Approval (LoA) No. C-21/ISEZ/Proj./2006-07/14 dated 03.04.2007 for setting up a unit at Indore Special Economic Zone, Pithampur, Distt. Dhar – 454774.

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.

3. Brief History of the Case:

3.1 The Appellant having executed a Bond-Cum-Legal Undertaking in Form H as per Rule 22 of the SEZ Rules, 2006, was approved for manufacturing Soft Gelatin Capsules for export. The Appellant's Authorised Operations are limited to "Manufacturing of Soft Gelatin Capsules for the purpose of export" as mentioned in the LoA. As per clause (x) of the LoA, the Unit is mandatorily required to abide by the provisions of the SEZ Act, 2005 and rules and orders made thereunder.

3.2 The Specified Officer, Indore SEZ, Pithampur, vide letter dated 13.03.2023 informed the Development Commissioner that the Appellant had procured three (03) luxury Mercedes Benz cars from DTA suppliers without payment of IGST, the details of which are as follows:

| S. No. | DTA Supplier | Invoice No. & Date | Description | HSN Code | Nos. | Total Value (Rs.) |
|---|---|---|---|---|---|---|
| 1 | Landmark Cars Pvt. Ltd., 25 Mangal Compound, Dewas Naka, Indore | LC/IN/33/20-21 dated 10.03.2021 | WDD2131226L027346 Mercedes Benz Car | 8703 | 1 | 46,63,007 |
| 2 | Landmark Cars Pvt. Ltd., 25 Mangal Compound, Dewas Naka, Indore | LC/IN/9/2122 dated 03.01.2022 | WIN1679236M006994 Mercedes Benz Car | 87033291 | 1 | 73,58,370 |
| 3 | Mercedes Benz India Pvt. Ltd., 25 | MP0000000034 | CKD H247 GLA220d | 87033291 | 1 | 31,66,487 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | Mangal Compound, Dewas Naka, Indore | dated 30.06.2022 | MY22 Mercedes Benz Car | | | |
| | | | | | **Total** | **1,51,87,864** |

All three cars were procured without payment of IGST, purportedly as supply to SEZ Unit for Authorised Operations. The aggregate value of the three luxury cars procured was Rs. 1,51,87,864/- on which substantial IGST was evaded.

3.3 Notably, it was also brought to light from Part II paras of DAR No. 03/SEZ/Audit/Medgel/Gr. C/2022-23 issued by the Commissioner (Customs), Indore, that the same unit had earlier procured 03 DSLR cameras without payment of IGST. When this was pointed out by the Customs Audit team regarding their non-usability in Authorised Operations, the unit paid the applicable IGST and interest thereon. This prior instance is significant as it demonstrates that the Appellant was already on notice that goods not directly linked to Authorised Operations are not entitled to the benefit of duty-free procurement under the SEZ scheme, yet chose to persist with the procurement of luxury cars in disregard of this settled position.

3.4 Vide letter dated 19.04.2024, the Development Commissioner sent a formal communication requesting the Appellant to submit evidence explaining how the procurement of three luxury cars from DTA was required for Authorised Operations, to enable the Development Commissioner to decide the matter under Rule 27(2) of SEZ Rules, 2006. The Appellant was also offered an opportunity for personal hearing. Conspicuously, no response was received from the Appellant at this stage, demonstrating a lack of bona fides.

3.5 The Development Commissioner, Indore SEZ, exercising powers under Rule 27(2) of SEZ Rules, 2006 vide letter dated 28.06.2024, formally decided that the three Mercedes Benz cars procured by the Appellant from DTA suppliers are not part of the approved Authorised Operations of the SEZ Unit. This decision was communicated to the Appellant by the Specified Officer (Customs) vide letter dated 22.07.2024.

3.6 Since the Appellant failed to abide by the terms and conditions of the LoA and Bond-cum-Legal Undertaking, and misused its SEZ status in violation of Section 2(c) read with Section 15(9), Section 26(c) & (g) of SEZ Act, 2005, and Rule 25, Rule 27(3) and Rule 34 of SEZ Rules, 2006, a Show Cause

Notice was issued dated 08.08.2024 for imposition of penalty under Sections 11, 12 & 13 of the Foreign Trade (Development & Regulation) Act, 1992 (FTDR Act) and the rules made thereunder.

3.7 A Speaking Order dated 09.05.2025 was passed by the Development Commissioner, Indore SEZ (Order-in-Original), holding that the Appellant had misused its SEZ status by procuring three luxury Mercedes Benz cars without payment of IGST in violation of the provisions of SEZ Act, 2005 and SEZ Rules, 2006, and directing: (i) deposit of applicable IGST along with interest to appropriate Authorities within 45 days; and (ii) imposition of a fiscal penalty of Rs. 5,00,000/- (Rupees Five Lakh Only) under Section 13 of FTDR Act, 1992 read with Notification No. S.O. (E) dated 17.04.2009.

4. Aggrieved by the above Order-in-Original, the Appellant has filed the present Appeal before the Appellate Authority i.e. DGFT, New Delhi, raising, inter alia, the following grounds:

4.1 That multiple Show Cause Notices have been issued by the Development Commissioner, Commissioner of Customs, and DGGI, which amounts to multiplicity of suits and double jeopardy, and thus the demand confirmed is liable to be dropped.

4.2 That the cars were procured in the name of the SEZ unit and the insurance is also in the name of the company; that the cars were used only for Authorised Operations including for taking foreign delegates and engineers to and from the premises; and that the right authority to adjudicate upon the question of IGST is GST Authorities and not the Development Commissioner.

4.3 That the DC has exceeded the jurisdiction of the SCN, as the SCN proposed only a penalty and not a demand for IGST, and the DC acted beyond the scope of the SCN.

4.4 That the GST Authorities, not the Development Commissioner, are the competent authority to decide on the applicability of zero-rated supply exemption under Section 16 of the IGST Act, 2017.

4.5 That the DC has adopted an unduly narrow interpretation of 'Authorised Operations', which encompasses all activities from installation of the factory to completion of sales transactions, and the cars used for official purposes of the SEZ unit fall within the ambit of authorised operations.

4.6 That the condition stipulated in Section 16 of the IGST Act, 2017 has been satisfied by the Appellant, which has also been approved by the SGST officer vide letter dated 18.08.2021, and that the DC has no power to override the view of the GST Authorities.

4.7 That no reasoning has been given by the DC to establish personal use of the cars and that the penalty imposed is arbitrary and without basis.

5. Comments on the Appeal were obtained from DC, Indore SEZ. The DC, Indore SEZ inter alia stated as under:

5.1 That the SCN was validly issued under FTDR Act, 1992 for violating SEZ Act and Rules and the Order-in-Original was passed after following the principles of natural justice. The penalty of Rs. 5,00,000/- is within the charges proposed in the SCN. The three SCNs issued by Development Commissioner, Customs, and DGGI were under different enactments for different purposes and do not constitute double jeopardy. Section 12 of FTDR Act, 1992 explicitly states that penalties under FTDR Act shall not prevent imposition of any other punishment under any other law. The Hon'ble Supreme Court in *Maqbool Husain vs. State of Bombay (1953 SCR 730)* confirmed that the protection against double jeopardy under Article 20(2) of the Constitution applies only to judicial proceedings and not to administrative actions.

5.2 That no documentary evidence was produced at any stage, including no log books, no emails or official communications regarding visits of foreign delegates or engineers, and no names of foreign buyers or engineers who used the cars. The "Rent-a-Cab Scheme Operator's Service" is already enlisted at Sl. No. 59 of the 66 default authorised services for SEZ units, making the duty-free purchase of luxury cars for this purpose wholly unjustified.

5.3 That there is no conflict between SEZ Act and GST Act both laws consistently deny tax benefits for goods not meant for Authorised Operations. The proviso to Rule 27(3) of SEZ Rules, 2006 explicitly denies any tax benefit for goods meant for personal consumption or consumption by officials, workmen, staff, or owners.

5.4 That Section 16 of IGST Act, 2017 must be read in conjunction with Section 26 of SEZ Act, 2005 and Rule 27(1) of SEZ Rules, 2006. The *M/s Coffee Day Global Limited (KAR ADRG 13/2018)* case, wherein the Authority for Advance Ruling, Karnataka held that the litmus test for any supply to be termed zero-rated is to ascertain essentially whether it is for Authorised Operations, squarely applies against the Appellant in the present case.

5.5 That the definition of "Authorised Operations" under Section 2(c) of SEZ Act, 2005 uses the word "means" and not "includes," making it a closed and exhaustive definition, and the Appellant's Authorised Operations as per LoA are specifically "Manufacturing of Soft Gelatin Capsules for the purpose of export."

5.6 That M/s CIPLA Ltd., another SEZ unit in the same SEZ Phase II, Pithampur, set the correct precedent by procuring vehicles by paying full IGST and Compensation Cess and filing the SEZ-DTA

procurement form on the SEZ ONLINE module. The Appellant's conduct creates a bad precedent that may encourage other compliant SEZ units to emulate this wrongful conduct, causing continuing revenue losses to the Government Exchequer.

6. The Appellant was granted a personal hearing (Virtual) on 12.06.2026, in which Shri Ankur Upadhya attended the hearing on behalf of the Appellant and Shri Abhishek Sharma, DC was present from the side of Indore SEZ.

6.1 In the personal hearing, the Appellant reiterated the submissions as in the Appeal. The Appellant additionally argued that the DC had gone beyond the Show Cause Notice in passing its order, and that the benefit claimed was under IGST laws which is not within the purview of the Development Commissioner. Further, IGST Act Section 16 was amended in the year 2023 to incorporate the term "authorized operation" making the application of the term prospective and the invoices for the cars procured by the Appellant was made in the year 2020 to 2022 and thus the same cannot apply to the Appellant.

6.2 The DC, Indore SEZ in reply to these submissions reiterated that the exemption of GST as claimed by the Appellant falls squarely within the purview of the Development Commissioner since such exemption is contingent upon the SEZ status of the Appellant and the Authorised Operations permitted thereunder. The permission having been denied by the Development Commissioner, the Appellant is liable for payment of IGST on the luxury cars.

7. Observations and findings:

7.1 It is noted that the instant appeal may be decided by answering the questions given below:

(i) Whether the DC, Indore SEZ was the competent authority to decide on the legality of the Appellant's procurement of luxury cars duty-free from DTA, citing Authorised Operations as the basis for exemption; and

(ii) If the DC had the authority to decide the said question, whether the DC has decided it correctly and in accordance with law; and

(iii) Whether the penalty of Rs. 5,00,000/- imposed by the DC, Indore SEZ is adequate, keeping in view the gravity, nature, deliberateness, and aggravated circumstances of the violation.

7.2 <u>On the Question of Jurisdiction of the Development Commissioner:</u>

7.2.1 The primary question for consideration is whether the DC had the power and authority to decide the legality of the Appellant's procurement of luxury cars duty-free from DTA. Relevant for this determination are Section 12(3) of the SEZ Act, Rules 27 & 34 of SEZ Rules, Instruction No. 3 dated 24.03.2006, Section 16 of the IGST Act, and Section 17 of the CGST Act.

7.2.2 A bare reading of Section 12(3) of the SEZ Act makes it apparent that the Development Commissioner has been vested with full control over the affairs of a Special Economic Zone, as the relevant portion states: *"...Every Development Commissioner shall be overall in-charge of the Special Economic Zone..."*. However, since the Appellant has raised the argument that in view of Section 16 of the IGST Act, the Development Commissioner is not the appropriate authority, it is necessary to analyse the relevant sections of the IGST and CGST Acts.

7.2.3 On perusal of Section 16 of the IGST Act and Section 17 of the CGST Act it is observed that neither section has the effect of ousting the jurisdiction of the Development Commissioner. It is a settled principle of jurisprudence that once jurisdiction is conferred on an authority, the same is presumed to exist unless explicitly barred. Sections 16 and 17 of the IGST and CGST Acts, respectively, do not in explicit terms bar the jurisdiction of the Development Commissioner. Furthermore, Section 51 of the SEZ Act, 2005 expressly provides that the SEZ Act shall override anything inconsistent with any other provision in any other law. Having regard to Section 51 of the SEZ Act, there arises no question of Section 16 of the IGST Act or Section 17 of the CGST Act barring the jurisdiction of the Development Commissioner.

7.2.4 Rule 27(2) of SEZ Rules, 2006 settles the question of jurisdiction of the Development Commissioner beyond any doubt, providing: *"In case of any doubt as to whether any goods or services are required by a unit or developer for authorized operations or not, it shall be decided by the Development Commissioner."* The word "shall" makes this not merely a power but an obligation. A cumulative reading of Section 12(3) of SEZ Act with Rules 27(2) and 34 of SEZ Rules makes it clear beyond doubt that the legislature intended to vest the Development Commissioner with full jurisdiction to decide whether a good or service is being utilized for Authorised Operations and, in the negative, to pass orders directing payment of duties. This question of jurisdiction is accordingly decided in favour of the Development Commissioner.

7.3 <u>Whether the Cars Formed Part of Authorised Operations:</u>

7.3.1 The Authorised Operations of the Appellant, as specifically mentioned in the LoA, are "Manufacturing of Soft Gelatin Capsules for the purpose of export." The definition of "Authorised Operations" under Section 2(c) of the SEZ Act, 2005 is exhaustive and not inclusive, as it uses the word "means" and not "includes." Every Authorised Operation must be specifically mentioned in the LoA as per Section 15(9) of the SEZ Act.

7.3.2 The privileges granted to units in Special Economic Zones are intended for specific purposes of promoting exports. It is a well-established principle that fiscal exemptions must be construed strictly and cannot be extended by a liberal or expansive interpretation to include sundry or peripheral activities. The manufacturing of Soft Gelatin Capsules for export cannot, by any reasonable interpretation, be said to include the procurement of luxury motor vehicles.

7.3.3 The Appellant has argued that the cars were used to ferry foreign delegates and engineers visiting the premises. This contention is wholly unsubstantiated. The Appellant has produced no log books, no names of foreign visitors, no correspondence or invitation letters, no records of foreign engineers' visits, and no RTO registration documents indicating commercial/taxi usage of the vehicles. The complete absence of any documentary proof reduces the Appellant's claim to a bare assertion that cannot be accepted in quasi-judicial proceedings.

7.3.4 Significantly, the "Rent-a-Cab Scheme Operator's Service" is already enlisted at Sl. No. 59 of the 66 default authorised services for SEZ units as issued by the SEZ Division, Ministry of Commerce & Industry. Thus, even if the need to ferry foreign visitors is accepted, the procurement of luxury cars duty-free for this purpose is wholly unjustified, as an official mechanism already exists to fulfil the stated purpose.

7.3.5 Under Rule 33(ii) of SEZ Rules, 2006, goods which require frequent entry into and exit from the Zone and which are not required for carrying out Authorised Operations shall be allowed in or out of the SEZ on the basis of general permission of the Specified Officer. The fact that the Appellant needed such general permission for the cars confirms that the cars were not required for carrying out Authorised Operations.

7.3.6 For all the foregoing reasons, the argument made by the Appellant in the hearing stating that 2023 amendment to Section 16 of the IGST Act has no bearing whatsoever upon the violation established in the present proceedings. The Appellant cannot seek shelter under a tax exemption provision to immunise itself for a breach under the SEZ Act. The argument is rejected in its entirety.

7.4 On the Adequacy of Penalty

7.4.1 Now the question which needs to be adjudged is whether the fiscal penalty of Rs. 5,00,000/- imposed by the DC, Indore SEZ, is commensurate with the gravity, scale, deliberateness, and aggravated circumstances of the violation, which requires a detailed analysis.

7.4.2 The violation in the present case is distinguished from ordinary infractions by several aggravating factors. First, the violation is not an isolated act but a deliberate, serial, and premeditated course of conduct. The Appellant procured three separate luxury Mercedes Benz vehicles on three distinct occasions over a period spanning March 2021 to June 2022. Each procurement was a fresh, conscious decision to avail of SEZ duty-free status for goods that bore no nexus whatsoever with the Authorised Operations of the unit. This pattern of behaviour demonstrates not inadvertence but calculated and deliberate misuse of SEZ privileges.

7.4.3 Second, and most critically, the Appellant was already on notice that procurement of goods unconnected with Authorised Operations does not entitle a unit to duty exemption. The Customs Audit Report (DAR No. 03/SEZ/Audit/Medgel/Gr. C/2022-23) had earlier pointed out the irregular procurement of three DSLR cameras without payment of IGST, following which the Appellant paid the applicable IGST and interest. Despite this prior notice, the Appellant proceeded to procure not one but three luxury cars of aggregate value Rs. 1,51,87,864/- without payment of IGST. This recidivist conduct, i.e., repeating a similar violation after having been caught and penalised for an analogous earlier infraction, substantially aggravates the culpability of the Appellant and must be reflected in the quantum of penalty.

7.4.4 Third, the magnitude of the tax evasion is substantial. The aggregate procurement value of the three luxury cars was Rs. 1,51,87,864/-. The applicable IGST on luxury vehicles under HSN 8703 (including Compensation Cess on such vehicles) represents a significant quantum of public revenue. Penal provisions under the FTDR Act serve not only a deterrent but also a proportional function, the penalty must bear a reasonable relationship to the extent of the fiscal benefit illegitimately appropriated. A penalty of a mere Rs. 5,00,000/- on an IGST evasion involving vehicles worth over Rs. 1.5 crore is manifestly inadequate and disproportionate to the gravity of the offence, and is incapable of serving as an effective deterrent.

7.4.6 Fourthly, the Appellant has consciously chosen to purchase the most premium segment of luxury vehicles Mercedes Benz cars at significant cost, using the duty-free procurement window meant for

facilitating manufacturing exports. This is precisely the kind of abuse that Section 13 of the FTDR Act, 1992 read with the SEZ Act and Rules is designed to penalise.

7.4.7 Fifth, the precedential impact of the present case must be considered. As pointed out by DC, Indore SEZ, other compliant SEZ units such as M/s CIPLA Ltd. in the same SEZ duly paid full IGST while procuring vehicles, abiding by the law in its letter and spirit. A grossly inadequate penalty in the present case would create a perverse incentive for compliant SEZ units to emulate the Appellant's wrongful conduct, causing continuing and cumulative revenue loss to the Government Exchequer. The interests of the rule of law and equitable treatment among SEZ units demand that the penalty be set at a level that is both proportionate to the gravity of the infraction and sufficient to deter similar conduct.

7.4.8 In view of the foregoing, I find that the penalty of Rs. 5,00,000/- imposed by the DC, Indore SEZ, while within jurisdiction, is manifestly inadequate and disproportionate to the scale, deliberateness, recidivism, and financial magnitude of the violations committed by the Appellant. Having regard to all the above aggravating factors and the provisions of Section 13 of the FTDR Act, 1992. In view of the above it is noted that the penalty need to be enhanced.

7.5 <u>On Other Grounds Raised by the Appellant:</u>

7.5.1 The contention of the Appellant regarding multiplicity of suits / double jeopardy is rejected. As held by the Hon'ble Supreme Court in *Maqbool Husain v. State of Bombay (1953 SCR 730)*, the protection against double jeopardy under Article 20(2) of the Constitution is available only in respect of prosecution in a court of law and not in respect of administrative/quasi-judicial proceedings. Furthermore, Section 12 of the FTDR Act expressly provides that penalties imposed thereunder shall not prevent imposition of any other punishment under any other law. The three proceedings by DC, Customs, and DGGI are under different statutes for different purposes and are not barred by the doctrine of double jeopardy.

7.5.2 The contention that the SGST authority's letter dated 18.08.2021 binds the Development Commissioner is also rejected. As discussed above, the Development Commissioner has exclusive and non-oust-able jurisdiction under the SEZ Act and Rules to decide whether goods are meant for Authorised Operations. No authority, howsoever placed, can fetter or override the quasi-judicial function of the Development Commissioner under the SEZ Act.

7.5.3 The contention that the definition of 'Authorised Operations' is broad enough to include all pre-manufacturing and post-manufacturing activities is rejected. The definition under Section 2(c) of the

SEZ Act uses the word "means" and not "includes", making it an exhaustive definition. Only those operations specifically mentioned in the LoA can constitute Authorised Operations. Any other interpretation would make the duty-free procurement facility an open-ended entitlement and render the entire SEZ scheme susceptible to abuse.

## Order

**F. No.: 01/92/180/39/AM26/PC6** Dated: 22.06.2026

After detailed analysis of the relevant legal provisions, the submissions of the parties, and the overall facts and circumstances of this case, it is found that the DC was within his jurisdictional powers to issue the Show Cause Notice and to pass the impugned Order-in-Original. The impugned Order-in-Original is affirmed and upheld on the merits. However, considering the gravity, wilful nature, and extent of the violations, and taking into account that the unauthorized benefit was availed in respect of three separate vehicles covered under three distinct invoices, thereby constituting three independent instances of contravention, the fiscal penalty is enhanced from Rs. 5,00,000/- (Rupees Five Lakh Only) to Rs. 15,00,000/- (Rupees Fifteen Lakh Only). The enhanced penalty is considered commensurate with the nature and multiplicity of the violations, being reckoned at Rs. 5,00,000/- in respect of each vehicle/invoice. All other directions contained in the Order-in-Original are confirmed and upheld.

The appeal stands disposed of in the above terms.

**(Lav Agarwal)**
**Director-General of Foreign Trade**

**Copy To:**

1) M/s Medgel Pvt. Ltd., Survey No. 289, Block No. 11, Pithampur, Distt. Dhar – 454774.

2) Development Commissioner, Indore SEZ for taking necessary action including recovery of the enhanced penalty.

3) DGFT's website.

(Sumit Verma)

Deputy Director General of Foreign Trade