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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01/92/180/32/AM26/PC6

Date of Order: 22.06.2026

Date of Dispatch: 22.06.2026

Name of the Applicant:	M/s Arriva Jewellery, Unit No. 201, Tower-1, SEEPZ++, SEEPZ Special Economic Zone, Andheri East, Mumbai – 400 096
IEC No.	2703000162
Order Appealed against:	Appeal against Order-in-Original No. Cust-11/23/2024-Customs-SEEPZ-Mumbai/O-249 dated 13.05.2025 passed by DC, SEEPZ.
Order passed by:	**Shri Lav Agarwal** **Director General of Foreign Trade**

Order-in-Appeal

M/s Arriva Jewellery (hereinafter referred to as the "Appellant"), a unit of the SEEPZ Special Economic Zone (SEEPZ-SEZ), was granted a Letter of Approval (LOA) bearing No. IA(I)/NUS/APL/GJ/313/03-04/471 dated 28.08.2003 by the Development Commissioner, SEEPZ-SEZ. The LOA is valid till 31.03.2030.

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 in the Director General of Foreign Trade 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 M/s Arriva Jewellery (hereinafter referred to as the "Appellant), a unit of the SEEPZ Special Economic Zone (SEEPZ-SEZ), was granted a Letter of Approval (LOA) authorising it to undertake the manufacture and export of Cut and Polished Diamonds, Plain and Studded Silver, Platinum, Palladium Jewellery, and Studded Gold Jewellery.

3.2 Under the SEZ legal framework, the submission of Annual Performance Reports (APRs) is not a mere administrative formality but a foundational obligation that sustains the regulatory architecture of Special Economic Zones. Rule 22(3) of the SEZ Rules, 2006, mandates every unit that has been granted permission for authorised operations to submit its APR in the prescribed format to the Development Commissioner, to be placed before the Approval Committee for consideration.

3.3 This obligation is reinforced and rendered contractually binding upon each SEZ unit by Condition No. 7 of the Bond-cum-Legal Undertaking executed by the Unit in Form-H under Rule 22(1)(i) of the SEZ Rules, 2006. Condition No. 7 expressly stipulates that the Unit shall, after commencement of production or service activities, submit to the Development Commissioner and the Specified Officer an Annual Performance Return, within a period of 180 days following the close of the financial year, in the form prescribed under the SEZ Rules, 2006, duly certified by a Chartered Accountant.

3.3 The Appellant failed to submit APRs for four consecutive financial years - 2020-21, 2021-22, 2022-23, and 2023-24 within the prescribed period from the close of each respective financial year. The details of the defaults, as established from the record and admitted by the Appellant itself, are tabulated below:

Financial Year	Due Date (180 days)	Date of Submission	Delay (Days)	Request ID
2020-21	30.09.2021	28.02.2022	59	2422000002660
2021-22	30.09.2022	12.12.2022	72	2422000036433
2022-23	30.09.2023	15.02.2025	503	242400013909
2023-24	30.09.2024	17.02.2025	139	242400037084

The cumulative period of default across the four years amounts to 773 days. The delay in relation to the APR for 2022-23, at 503 days, is particularly egregious and represents a near-total disregard of the prescribed timeline for that year.

3.4 The matter came to light during the scrutiny of records pertaining to the APRs of the Unit at the 197th meeting of the Unit Approval Committee (UAC) chaired by the Development Commissioner, SEEPZ-SEZ, held on 24.03.2025. The UAC directed the issuance of a Show Cause Notice (SCN) for the delayed submission of APRs for the said four financial years.

3.5 Accordingly, SCN bearing No. SEEPZ-SEZ/IA-I/MTG/ARIV/05-06/L-182/05005 dated 08.04.2025 was issued to the Unit by the Development Commissioner, SEEPZ-SEZ, calling upon the Unit to show cause, within 15 days, as to why penal action should not be initiated against it under Section 11(2) of the Foreign Trade (Development & Regulation) Act, 1992 (as amended) ("FT(D&R) Act") read with Rule 54(2) of the SEZ Rules, 2006.

3.6 In response to the SCN, the Unit filed a reply dated 29.04.2025 in which it: (i) admitted unreservedly that it could not submit the APRs for all four financial years within the prescribed time; (ii) attributed the delays to "some administrative reason at its end" without specifying the nature or details of such reasons; (iii) assured the Development Commissioner that utmost care would be taken in future to submit APRs within the stipulated time; (iv) requested a lenient view and prayed that the SCN be dropped; and (v) stated that it did not wish to be heard in person before the adjudicating authority.

3.7 After considering the written submissions of the Unit and examining the entire case record, the Development Commissioner, SEEPZ-SEZ, passed the Order-in-Original dated 13.05.2025, recording a finding that the Unit had violated the provisions of the SEZ Rules, 2006 and the terms and conditions of the Bond-cum-Legal Undertaking, and imposed a monetary penalty of Rs. 2,60,000/- (Rupees Two Lakh Sixty Thousand Only) upon the Appellant under Section 11(2) of the FT(D&R) Act, 1992 read with Rule 54(2) of the SEZ Rules, 2006.

4. Aggrieved by the Order-in-Original dated 13.05.2025, the Appellant has prefeered the present appeal before this Authority.

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

5.1 The delays in submission of APRs were on account of administrative reasons which were duly communicated to the Development Commissioner, SEEPZ-SEZ, along with an assurance of future compliance;

5.2 The Development Commissioner ought to have considered the submissions made by the Appellant before passing the order, and that the penalty of Rs. 2,60,000/- was imposed without adequately weighing the merits of the Appellant's reply;

5.3 Delay in submission of reports does not amount to a violation of any law or rules as such no penal action is warranted;

5.4 The Appellant is currently facing financial challenges and is managing to run its operations and meet day-to-day expenses; and

5.5 The appeal may be allowed in its favour and the Order-in-Original set aside.

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 in its entirety. The Respondent's submissions, briefly stated, are:

6.1 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 Bond-cum-Legal Undertaking, and failure to comply for four consecutive years with delays ranging from 59 to 503 days constitutes a well-established contravention;

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

6.3 due process was fully followed a detailed SCN was issued, a reply was received and considered, and the penalty was imposed proportionally taking into account the cumulative and repetitive nature of the default;

6.4 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); and

6.5 the DGFT's own precedent in the matter of M/s MD Equipments upholds the imposition of penalty for delayed APR filing.

7. The parties were granted a personal hearing in the matter on 04.06.2026 through video conferencing. Shri Shubham Lohade, attended from the side of Appellant and Shri Mayur Mankar, Joint Development Commissioner joined from the office of Development Commissioner, SEEPZ.

8. In the hearing the Appellant attributed the delays to administrative challenges and frequent changes in accounts but committed to timely submissions moving forward with a dedicated team. Mayur Mankar explained that penalties were imposed due to continuous non-compliance despite multiple notices and COVID-related relaxations, with approval from the 197 Approval Committee under relevant rules.. The Appellant further accepted the fault and requested a waiver, committing to improved compliance in the future.

9. Observations and findings

9.1 The starting point of the analysis is the legal and contractual framework that governs the functioning of SEZ units. The Special Economic Zones Act, 2005 and the SEZ Rules, 2006 constitute a comprehensive, self-contained code governing the establishment, operation, and regulation of Special Economic Zones and the units operating therein. The fiscal and regulatory concessions extended to SEZ units including customs duty exemptions, income tax benefits, and simplified procedures are granted in exchange for the units fulfilling a set of performance obligations, the most critical of which is the maintenance of positive Net Foreign Exchange (NFE) earnings. The Annual Performance Report is the primary instrument through which the Approval Committee and the Development Commissioner monitor compliance with these obligations. Without timely and accurate APRs, the regulatory oversight mechanism envisaged by the SEZ framework collapses entirely.

9.2 Rule 22(3) of the SEZ Rules, 2006 provides in mandatory terms ("shall submit") that every Unit that has been granted permission for authorised operations shall submit the APR in the prescribed format to the Development Commissioner, to be placed before the Approval Committee for consideration. This obligation is time-bound: the APR must be submitted within 180 days of the close of the relevant financial year. The 180-day window is itself a generous concession, allowing units sufficient time to get their accounts audited and certified by an independent Chartered Accountant as required.

9.3 Over and above the statutory obligation, the same obligation is independently embedded in the Bond-cum-Legal Undertaking executed by the Unit. Condition No. 7 of the Bond-cum-Legal Undertaking executed in Form-H under Rule 22(1)(i) of the SEZ Rules, 2006 contractually binds the Unit to submit the APR within 180 days. A Unit that accepts the benefits of the SEZ scheme cannot simultaneously avoid the regulatory obligations that are the quid pro quo for those benefits.

9.4. The Appellant has further contended in that the penalty was imposed without adequately considering the submissions made by it in its reply to the SCN. This ground is equally devoid of merit.

9.5 An examination of the Order-in-Original reveals that the Development Commissioner, SEEPZ-SEZ, has specifically recorded and considered the Appellant's submissions. The Order-in-Original reproduces, in extenso, the reply submitted by the Appellant dated 29.04.2025 under the caption "Reply to Show Cause Notice by M/s Arriva Jewellery." The operative portion of the Order-in-Original expressly states that the Development Commissioner has "carefully gone through the entire case records" and the "written submissions made by the Unit vide letters dated 29.04.2025." The order proceeds to address the legal basis of liability, the regulatory framework, and the relevant facts before arriving at the finding of violation and imposing the penalty.

9.6 The requirement of natural justice and the right to be heard is satisfied when the adjudicating authority issues a notice, receives a reply, and passes an order after considering the reply. The Appellant was given a full and fair opportunity to respond.

9.7 In view of the foregoing analysis, this Authority is 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 the terms of Condition No. 7 of the Bond-cum-Legal Undertaking executed in Form-H under Rule 22(1)(i) of the SEZ Rules, 2006. The defaults are admitted, established from the record, and constitute violations of both a statutory obligation and a contractual undertaking. The Appellant is accordingly 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.

9.8 The Appellant's admission of the defaults both in its reply to the SCN before the Development Commissioner and in the present appeal is a significant feature of this case. Unlike cases where the unit disputes the fact of violation and requires the adjudicating authority to marshal evidence and establish the contravention, the present case presents an admitted violation. This circumstance, while it does not absolve the Appellant of liability, is highly relevant to the question of the appropriate quantum of penalty, as it demonstrates good faith, transparency, and a respect for the regulatory process that goes beyond mere technical compliance.

9.9 Having established the fact and legal basis of the violation, this Authority now turns to the question that is central to the present appeal: whether the quantum of penalty imposed by the Order-in-Original is appropriate, or whether it warrants modification in the exercise of appellate jurisdiction.

9.10 The power to impose penalty under Section 11(2) of the FT(D&R) Act, 1992 is a discretionary power. The exercise of this discretion must be guided by settled principles of administrative law, including the principle of proportionality. A penalty must bear a reasonable and proportionate relationship to the gravity of the violation, the conduct of the noticee, the degree of culpability, the consequences of the violation, and all other relevant circumstances.

9.11 The Appellant has admitted the defaults fully, unequivocally, and without qualification, both before the Development Commissioner and before this Authority.

9.12 The Appellant has given an unconditional assurance of future compliance, stating that it will take utmost care to submit APRs within the stipulated time. While such assurances must be treated with appropriate caution given the four-year pattern of defaults, this Authority notes that the assurance, if honoured, would achieve the ultimate regulatory objective of timely performance reporting;

Order

01/92/180/32/AM26/PC6

Dated: 27.06 2026

For the reasons set out herein above, the appeal filed by M/s Arriva Jewellery against Order-in-Original No. Cust-11/23/2024-Customs-SEEPZ-Mumbai/O-249 dated 13.05.2025 is hereby partly allowed. The monetary penalty imposed on M/s Arriva Jewellery is hereby reduced from Rs. 2,60,000/- (Rupees Two Lakh Sixty Thousand Only) to Rs. 1,00,000/- (Rupees One Lakh Only). In all other respects, the findings and conclusions recorded in the Order-in-Original are affirmed and upheld.

The Appellant is hereby put on express notice that the reduction in penalty granted by this Order is a one-time measure reflecting the specific mitigating circumstances of the present case, in particular the Appellant's unreserved admission of default, the subsequent filing of all outstanding APRs, and the representation of financial hardship. Any failure to submit APRs for any future financial year within the prescribed period of 180 days shall be treated as a deliberate and aggravated violation, and neither admission of default nor financial hardship shall be entertained as grounds for mitigation in future proceedings.

The appeal stands disposed of in the above terms.

(Lav Agarwal)
Director-General of Foreign Trade

Copy To:

1. M/s Arriva Jewellery, Unit No. 201, Tower-1, SEEPZ++, SEEPZ-SEZ, 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 and take note of the directions regarding future defaults.

3. DGFT's Website

(Sumit Verma)
Deputy Director General of Foreign Trade