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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01/92/180/51/AM26/PC6/41 Date of Order: 10.08 .2026

Date of Dispatch: 10.08 .2026

Name of the Applicant:	M/s Shankar Jewels Ltd., G-15, G & J Complex II, SEEPZ Special Economic Zone, Andheri East, Mumbai - 400 096.
IEC No.	0390009091
Order Appealed against:	Appeal against Order-in-Original No. CUST.11/1261/2022-CUSTOM/O-252/06900 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 Shankar Jewels 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 27.03.1989, as amended, by the Development Commissioner, SEEPZ-SEZ, for manufacturing of Cut & Polished Diamonds, Plain Gold Jewellery and Studded Gold Jewellery.

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 APR for financial year 2022-23 within the prescribed period. The details of the default, as established from the record and admitted by the Appellant, are tabulated below:

Financial Year	Due Date	Actual Date of Submission	Delay (Days)
2022-23	30.09.2023	30.01.2025	488 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, upon scrutiny of the Appellant's records, directed the issuance of a Show Cause Notice for the delayed submission of the APR, while simultaneously noting that the Appellant had achieved positive Net Foreign Exchange (NFE) on a cumulative basis in terms of Rule 54 of the SEZ Rules, 2006. The Committee also directed the Appellant to clear outstanding dues of Rs. 76,73,778.35/- and directed that a letter be written to the Specified Officer to verify foreign exchange realisation.

3.5 Accordingly, SCN dated 08.04.2025 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 25.04.2025 in which it: (i) submitted that its Chartered Accountant, Mrs. Malvika

Mitra, who had been associated with the Unit for a considerable period, was suffering from cancer and was unable to complete the certification work on time; (ii) submitted that the wife of Mr. Rajeev Shankar Pandya, one of the Directors/partners of the Appellant company, was suffering from a serious illness and passed away in 2023, causing tremendous disruption to the work of preparing the APR; (iii) stated that a new Chartered Accountant has since been appointed to handle compliance; (iv) submitted that there was no wilful act or apathy, as the Appellant had already achieved the mandated NFE and other obligations under the SEZ Rules, rendering the lapse purely technical in nature; and (v) requested that the lapse be condoned on a caution, without imposition of penalty, with an assurance of timely compliance in future.

3.7 A personal hearing was granted to the Appellant through video conference on 06.05.2025, wherein the Appellant's representative admitted the fact of non-timely submission of the APR.

3.8 After considering the Appellant's written submissions and the entire case record, the Development Commissioner, SEEPZ-SEZ, passed the Order-in-Original dated 13.05.2025. The Adjudicating Authority condoned, on compassionate grounds, 92 days of the delay in submission of the APR for FY 2022-23 (i.e., up to 31.12.2023) having regard to the personal hardship faced by the Appellant on account of the demise of the wife of one of its Directors/partners and the illness of its Chartered Accountant during the said period. The remaining delay of 396 days was, however, held liable for penal action, and a monetary penalty of Rs. 1,32,000/- (Rupees One Lakh Thirty Two Thousand Only) was imposed 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 delay in submission of the APR for FY 2022-23.

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 the Adjudicating Authority failed to appreciate the facts and circumstances of the case;

5.2 That the imposition of penalty is disproportionate to the nature of the violation;

5.3 That the Appellant has been a compliant SEZ unit and has not wilfully defaulted;

5.4 That the Appellant has been a compliant SEZ unit and has not wilfully defaulted; it was due to the health of the Chartered Accountant and partners wife that the default arose;

5.5 That there was no wilful act or apathy on the part of the Appellant, and the delayed submission was only due to adverse and unavoidable circumstances;

5.6 That the Appellant is not deriving any undue advantage from the late submission, having already achieved the mandated NFE and other obligations under the SEZ Rules; and

5.7 That the delayed submission of APR is purely technical in nature and merits condonation/leniency, and that the penalty imposed be waived or reduced to a token amount.

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 constitutes a well-established contravention that cannot be treated as a mere lapse;

6.2 That 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 That 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, being modest when measured against the statutory ceiling of up to five times the value of goods/services under Section 11(2) of the FT(D&R) Act, 1992;

6.4 That 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), irrespective of whether the mandated NFE has otherwise been achieved, 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 and holds that relaxation from statutory obligations is warranted only in extraordinary circumstances, which the Respondent submits are not made out on the facts of the present case; and

6.5 That, significantly, the Appellant has repeatedly filed delayed APRs in other years as well - for FY 2020-21 (110 days), FY 2021-22 (390 days) and FY 2023-24 (246 days, yet to be submitted on the SEZ online portal) - and that although these defaults have not been covered by the impugned Order-in-Original and are yet to be placed before the Approval Committee, they demonstrate that the default for FY 2022-23 is not an isolated, hardship-driven lapse but part of a sustained pattern of non-compliance by the Appellant.

7. The parties were granted a personal hearing in the matter on 14.07.2026 through 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 illness of its Chartered Accountant and the demise of the wife of its Director, and submitted that the outstanding APR now stands filed and that adequate arrangements, including appointment of a new Chartered Accountant, have been made to ensure timely compliance in future. The Appellant accepted the fact of default and prayed for waiver or reduction of the penalty. The representative of the Respondent reiterated the submissions made in its written comments, and additionally pointed out that the very same personal hardship - relating to the shared Chartered Accountant and to the demise of the wife of Shri Rajeev Shankar Pandya - had already been considered in mitigation, and that the Appellant's own record of repeated delayed filings in other financial years did not support the plea that the default for FY 2022-23 was an isolated, purely technical lapse.

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 Appellant, having admitted the default both before the Adjudicating Authority and before this Authority, cannot dispute the fact of contravention.

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. The reliance placed by the Respondent on Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 SCC 361] for the proposition that proof of mens rea is not a prerequisite for imposition of penalty for a statutory contravention is well founded, and the grounds of appeal that no violation is made out, or that no penalty is warranted in the absence of wilful default, are accordingly rejected.

9.3 The ground that the penalty has been imposed without appreciation of the facts of the case is equally without merit. The obligation to file the APR within 180 days existed under the SEZ Rules and the BLUT well before the default occurred, and the Order-in-Original demonstrates that the Adjudicating Authority duly considered the Appellant's submissions and, in fact, condoned 92 days of the delay on compassionate grounds before proceeding to penalise the residual default of 396 days.

9.4 The question that remains for consideration is whether the quantum of penalty of Rs. 1,32,000/- 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 and the demise of the wife of its Director, Shri Rajeev

Shankar Pandya, during the period the APR for FY 2022-23 fell due. It is noted that the Adjudicating Authority had already condoned 92 days of the delay on precisely these compassionate grounds before penalising only the residual 396 days. Having regard to the genuineness and severity of the hardship pleaded, this Authority considers it appropriate to extend a further 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. 1,32,000/- imposed by the Adjudicating Authority warrants modification.

Order

01/92/180/51/AM26/PC6/41

Dated: 10.08.

2026

For the reasons set out herein above, the appeal filed by M/s Shankar Jewels Ltd. against Order-in-Original dated 13.05.2025 is partly allowed. The penalty of Rs. 1,32,000/- (Rupees One Lakh Thirty Two Thousand Only) imposed on M/s Shankar Jewels Ltd. vide the impugned Order-in-Original is hereby modified and reduced to Rs. 50,000/- (Rupees Fifty Thousand Only).

The appeal stands disposed of in the above terms.

(Lav Agarwal)

Director General of Foreign Trade

Copy To:

1. M/s Shankar Jewels Ltd., G-15, G & J Complex II, 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.

3. DGFT's Website.

(Sumit Verma)
Deputy Director General of Foreign Trade