

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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01/92/180/05/AM26/PC6

Date of Order: 22.06.2026

Date of Dispatch: 22.06.2026

Name of the Applicant:

M/s. Bajaj Warehousing Services  
Plot No. 272-A, 272-B, 273-C & 273-D,  
Sector-IV, Kandla Special Economic Zone,  
Gandhidham (Kutch) – 370230

IEC No.

AAUFB7816P

Order Appealed against:

Appeal against Order-in-Original No.  
KASEZ/15/2024-25 dated 12.02.2025

Order passed by:

**Shri Lav Agarwal**  
**Director General of Foreign Trade**

**Order-in-Appeal**

1. M/s. Bajaj Warehousing Services (hereinafter “the Appellant”) is a partnership firm operating a warehousing unit at Plot No. 272-A, 272-B, 273-C & 273-D, Sector-IV, Kandla Special Economic Zone (KASEZ), Gandhidham (Kutch) – 370230, holding Letter of Approval (LoA) No. 026/2010-11



dated 25.10.2010 for Warehousing Service Activity under Rule 18(5) and Rule 76 of the SEZ Rules, 2006, as amended and renewed from time to time, currently valid till 23.10.2026.

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

3. Brief Facts of the Case:

3.1 The Appellant, M/s. Bajaj Warehousing Services, was granted LoA No. 026/2010-11 on 25.10.2010 for Warehousing Service Activity under Rule 18(5) of the SEZ Rules, 2006. Permission to operate under Rule 76 of the SEZ Rules, 2006 was subsequently granted vide letter dated 17.05.2013. The Appellant was allotted four plots (272-A, 272-B, 273-C & 273-D) on which two separate warehouses were constructed.

3.2 At the time of first renewal in November 2017 (valid till 23.10.2021), additional conditions were inserted in the LoA, viz.: (a) no sub-letting or sharing of premises in any manner; and (b) no manufacturing activity in the warehousing units. These conditions were reiterated in the second renewal letter dated 25.10.2021 (valid till 23.10.2026). Additionally, based on the 152<sup>nd</sup> Unit Approval Committee (UAC) meeting held on 10.01.2020, the Appellant was permitted to warehouse goods of only one worn/used clothing unit in each warehouse.

3.3 The Prevention & Intelligence (P&I) section of Customs, KASEZ inspected the Appellant's premises on 17.10.2023 and filed a report dated 18.10.2023 noting: (i) huge stocks of worn and used clothing belonging to M/s. Babu International and M/s. Texpoly Impex (both KASEZ units); (ii) machinery including bale press machines, garment cutting machines and conveyor belts; and (iii) labour engaged in segregation, sorting, cutting, baling and related activities. Based on this report, a Show Cause Notice (SCN) No. KASEZ/IA/026/2010-11 dated 02.11.2023 was issued calling upon the Appellant to show cause why its LoA should not be cancelled and penalty should not be imposed.

3.4 After a personal hearing held on 21.12.2023, the Development Commissioner, KASEZ passed Order-in-Original (OIO) No. KASEZ/15/2024-25 dated 12.02.2025, whereby: (i) the proceedings for cancellation of LoA under Section 16 of the SEZ Act, 2005 were dropped; and (ii) a penalty of Rs. 28,83,208/- (Rupees Twenty-Eight Lakhs Eighty-Three Thousand Two Hundred and Eight only) was imposed under Section 11(2) of the FT (D&R) Act, 1992, read with Rule 54(2) of the SEZ Rules, 2006.



3.5 Aggrieved by the impugned OIO, the Appellant preferred the present appeal before this Authority.

4. In the appeal the Appellant states that:

4.1 The OIO has been passed in a mechanical manner without application of mind.

4.2 The Appraiser's report dated 18.10.2023 nowhere states that the Appellant was carrying out manufacturing activity. The report merely records that stocks of M/s. Babu International and M/s. Texpoly Impex were found in separate warehouses. The Appellant had executed Memoranda of Understanding (MOUs) with these units for providing warehousing services, not for sub-letting, as is legally permitted under Rule 76 of the SEZ Rules, 2006.

4.3 The personal hearing was held on 21.12.2023, but the OIO was passed on 12.02.2025 – a lapse of approximately 14 months – raising a likelihood that submissions made at the personal hearing were not properly considered.

4.4 The penalty has been imposed under Section 11(2) of the FT (D&R) Act, 1992, which applies to contraventions in respect of "import or export". In the present case, no contravention in respect of any import or export has been alleged in the SCN and therefore the penalty under this provision is legally impermissible.

4.5 Rule 54(2) of the SEZ Rules, 2006 imposes penalty for failure to achieve positive NFE or breach of LoA conditions. In the present case, the Appellant has achieved positive NFEE and received warehousing charges in foreign exchange as mandated under Section 2(z) of the SEZ Act, 2005, thereby complying with the primary object of its LoA. The penalty under Rule 54(2) is therefore bad in law.

4.6 Rule 18(1) of the SEZ Rules empowers the UAC to modify terms and conditions only at the initial stage of issuing LoA. Rule 19 contains no provision for modifying LoA conditions at the time of renewal. Consequently, the additional conditions (a) and (b) inserted at renewal in 2017 and 2021 are ultra vires the SEZ Rules and legally invalid.

4.7 The 152<sup>nd</sup> UAC meeting held on 10.01.2020 decided that LoAs issued between 22.12.2008 to 11.07.2011 shall be renewed with original conditions. The Appellant's LoA was issued on 25.10.2010 and is thus covered by this decision. Accordingly, the prohibition on manufacturing activity inserted in the renewal letters is not justified and ought to be deleted.

4.8 The Appellant's two warehouses are entirely separate structures with independent entry/exit, electricity connections, loading/unloading ramps – as confirmed even by the Appraiser's own report.



Therefore the condition of the 152<sup>nd</sup> UAC meeting – permitting warehousing for one worn/used clothing unit in “each warehouse” – has been complied with.

4.9 The Appellant is an MSME unit. The penalty of Rs. 28,83,208/- is grossly disproportionate, unreasonable and exorbitant. Reliance is placed on the Hon’ble Supreme Court’s judgment in *Hindustan Steel Limited v. State of Orissa* – 1978 ELT (J159) (SC), wherein it was held that penalty should not be imposed merely because it is lawful to do so, and even a token penalty is not justified in the absence of dishonest or contumacious conduct.

4.10 The Respondent has taken a lenient view by dropping LoA cancellation proceedings recognising mitigating factors, yet imposed near-maximum penalty, creating an internal inconsistency in the OIO. Alternatively, the penalty may be reduced to the bare minimum of Rs. 10,000/- as provided under Section 11(2) of the FT (D&R) Act, 1992.

5. In reply to this DC, KASEZ, the Respondent has stated the following:

5.1 The OIO was not passed mechanically as all submissions were duly considered at paras 18 and 19 of the OIO.

5.2 The Appellant was actively engaged in sub-letting/renting the warehouse to M/s. Babu International and M/s. Texpoly Impex in contravention of the LoA conditions. The MOUs executed were in substance rent agreements as found by the Appraiser.

5.3 The submissions at the personal hearing were fully taken into consideration and the authorized representative of the Appellant himself admitted the violation and gave an assurance of non-repetition.

5.4 The argument regarding illegality of conditions (a) and (b) inserted at renewal is untenable as the Appellant had itself submitted Bond-cum-Legal Undertaking (BCLUT) on 17.03.2018 and 13.11.2021 accepting all terms and conditions of the LoA.

5.5 The 152<sup>nd</sup> UAC meeting permitted warehousing for only one worn/used clothing unit, not one in each warehouse. The Appellant had two separate clients – one in each warehouse – which violates this condition.

5.6 The penalty has been imposed under the applicable provisions of law and is commensurate with the gravity of the violation. The OIO is a well-reasoned legal order and deserves to be upheld in its entirety.

6. Personal hearing on the matter was granted to the parties on 18.05.2026 at 2:30 PM, in which Shri Akhil Mohinder Bajaj, Partner, attended on behalf of the Appellant and Shri Bhanu Jain, Dy. Development Commissioner (i/c), KASEZ, was present on behalf of the Respondent.

7. In the Personal hearing the Appellant and the Respondent reiterated the position taken in their submissions.

8. During the personal hearing, the Appellant also placed special emphasis on the disproportionality of the penalty vis-à-vis the Appellant's scale as an MSME unit.

9. Observations and Findings

9.1 It is noted that the Appellant's authorised representative, during the personal hearing before the Adjudicating Authority on 21.12.2023, voluntarily admitted that manufacturing activity was being carried out at the Appellant's premises by the service-recipient units and gave an assurance of non-repetition. This admission is duly recorded in the OIO at para 18 and constitutes a binding acknowledgment of the violation. I, therefore, confirm that the violation of LoA conditions (a) and (b) as amended at the time of renewal is established.

9.2 On the validity of renewed LoA conditions:

The Appellant has contended that the conditions inserted at renewal are ultra vires Rule 18(1) of the SEZ Rules. This is a substantive legal contention. However, I find that:

(i) First proviso to Rule 19(2) of the SEZ Rules, 2006 expressly empowers the Approval Committee to consider proposals for broad-banding, diversification, enhancement, change in items of manufacture or service activity at the time of renewal. The conditions were inserted pursuant to a decision of the 116<sup>th</sup> UAC meeting held on 19.07.2017 and are within the ambit of the Approval Committee's statutory powers.

(ii) More importantly, after receipt of the renewal letter dated 23.11.2017 incorporating these conditions, the Appellant executed a fresh BCLUT on 17.03.2018 expressly committing to abide by all terms and conditions. The same was repeated at the time of the second renewal in 2021. By accepting the benefits of renewal and executing BCLUTs with full knowledge of the conditions, the Appellant is estopped from questioning their validity in these proceedings. No challenge was raised before any competent forum at either renewal stage.

9.3 The Appellant voluntarily admitted the violation at the personal hearing, immediately removed all manufacturing machinery from the premises, and sustained compliance thereafter conduct confirmed by surprise inspections.

9.4 In view of the foregoing, I am satisfied that the violation is established but the penalty of Rs. 28,83,208/- warrants moderation. The ends of justice would be met by reducing the penalty to fifty



percent (50%) of the amount imposed, i.e., to Rs. 14,41,604/- (Rupees Fourteen Lakhs Forty-One Thousand Six Hundred and Four only). The Appellant is simultaneously warned that any recurrence of sub-letting or facilitation of unauthorised manufacturing activity shall render it liable to cancellation of LoA and enhanced penal action without further leniency.

**Order**

F. No. 01/92/180/05/AM26/PC6

Dated: 22.06.2026

The Appeal is partly allowed. The finding of violation of LoA conditions and Rule 18(5) of the SEZ Rules, 2006 as recorded in OIO No. KASEZ/15/2024-25 dated 12.02.2025 is upheld. The penalty is, however, reduced from Rs. 28,83,208/- to Rs. 14,41,604/- (Rupees Fourteen Lakhs Forty-One Thousand Six Hundred and Four only), being fifty percent of the original penalty, in view of the mitigating circumstances enumerated above.



(Lav Agarwal)

**Director-General of Foreign Trade**

Copy To:

- 1) M/s. Bajaj Warehousing Services, Plot No. 272-A, 272-B, 273-C & 273-D, Sector-IV, KASEZ, Gandhidham (Kutch).
- 2) Development Commissioner, Kandla SEZ for taking necessary action.
- 3) DGFT's website.



(Sumit Verma)

**Deputy Director General of Foreign Trade**