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

*****

01/92/180/50/AM26/PC6/40 Date of Order: 10.08 .2026

Date of Dispatch: 10.08.2026

Name of the Applicant:	M/s S.J. International, Unit No. G-16, G & J Complex-II, SEEPZ Special Economic Zone, Andheri East, Mumbai – 400 096.
IEC No.	2707000078
Order Appealed against:	Appeal against Order-in-Original No. SEEPZ-SEZ/MONTG/APR-QPR/2009-10/O-245/06385 dated 07.05.2025 passed by DC, SEEPZ.
Order passed by:	**Shri Lav Agarwal** **Director General of Foreign Trade**

Order-in-Appeal

M/s S.J. International (hereinafter referred to as the "Appellant"), a unit of the SEEPZ Special Economic Zone (SEEPZ-SEZ), was granted a Letter of Approval (LOA) dated 12.10.2007, by the Development Commissioner, SEEPZ-SEZ..

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 a Letter of Approval (LOA) dated 12.10.2007, as amended, by the Development Commissioner, SEEPZ-SEZ, for manufacturing of Brass Studded Jewellery, copper studded Jewellery, Diamonds Studded gold Jewellery, Silver Studded Jewellery, Stainless Steel Studded Jewellery and allied items with Diamonds, Precious, Semi-Precious Stones, CZ, Synthetic & Graphix Stones.

3.2 Under Rule 22(3) read with Rule 54 of the SEZ Rules, 2006, and Condition No. 7 of the Bond-cum-Legal Undertaking, 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 APRs for three consecutive financial years - 2020-21, 2021-22, and 2022-23 - within the prescribed period. The details of the defaults, as established from the record and admitted by the Appellant, are tabulated below:

Financial Year	**Due Date**	**Actual Date of Submission**	**Delay (Days)**
2020-21	31.12.2021*	21.04.2022	110 days
2021-22	30.09.2022	17.10.2023	384 days
2022-23	30.09.2023	20.01.2025	477 days

*Due date for FY 2020-21 stood extended to 31.12.2021 on account of COVID-19 vide Ministry of Commerce & Industry circular dated 29.06.2021.

The cumulative period of default across the three years amounts to 971 days.

3.4 The matter was placed before the 196th meeting of the Unit Approval Committee (UAC), SEEPZ-SEZ, held on 03.03.2025, which, upon scrutiny of the Appellant's records, directed the issuance of a

Show Cause Notice for the delayed submission of APRs, 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.

3.5 Accordingly, SCN dated 24.03.2025 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 11.04.2025 in which it: (i) attributed the delay for FY 2020-21 and 2021-22 to disruption caused by the COVID-19 pandemic and consequent absenteeism of staff; (ii) 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; (iii) submitted that the wife of Mr. Rajeev Shankar Pandya, one of the partners of the Appellant firm, was suffering from a serious illness and passed away in 2023, causing tremendous disruption to the work of preparing the APRs; (iv) stated that a new Chartered Accountant has since been appointed to handle compliance; (v) 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 lapses purely technical in nature; and (vi) requested that the lapses 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 29.04.2025, wherein the Appellant's representative admitted the fact of non-timely submission of the APRs.

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 07.05.2025. 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 partners and the illness of its Chartered Accountant. The remaining cumulative delay was, however, held liable for penal action, and a monetary penalty of Rs. 2,95,000/- (Rupees Two Lakh Ninety-Five 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 APRs for FY 2020-21, 2021-22, and 2022-23.

4. Aggrieved by the Order-in-Original dated 07.05.2025, the Appellant has preferred the present appeal under Section 15 of the FT(D&R) Act, 1992 dated 21.06.2025. 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; 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 Bond-cum-Legal Undertaking, and failure to comply for three consecutive years, with delays ranging from 110 to 477 days, constitutes a well-established and sustained 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

6.5 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.

7. The parties were granted a personal hearing in the matter on 09.07.2026 through video conferencing. Shri Rajeev Shankar Pandya, Partner, appeared on behalf of the Appellant, and 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 one of its partners, and submitted that all outstanding APRs now stand 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 a reduction in penalty. The representative of the Respondent reiterated that the delays were sustained across three financial years and that penal action was warranted, while not

disputing that the Approval Committee had itself recorded, at its 196th meeting, that the Appellant had achieved positive NFE on a cumulative basis.

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 fiscal and regulatory concessions extended to SEZ units are granted in exchange for the units fulfilling performance obligations, monitored principally through the APR. 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 grounds that the penalty has been imposed with retrospective effect and without appreciation of the facts of the case are equally without merit. The obligation to file APRs within 180 days existed under the SEZ Rules and the BLUT well before the defaults 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 for FY 2022-23 on compassionate grounds before proceeding to penalise the residual default.

9.4 The question that remains for consideration is whether the quantum of penalty of Rs. 2,95,000/- 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 In the present case, several factors are relevant to the quantum of penalty. First, the Appellant has admitted the defaults fully and unequivocally, both before the Development Commissioner and before this Authority, reflecting good faith and transparency. Second, the personal hardships pleaded by the Appellant namely, the prolonged illness of its Chartered Accountant and the demise of the wife of one of its partners during the very period the APRs for FY 2021-22 and 2022-23 fell due are supported by material on record and were significant enough for the Adjudicating Authority itself to condone part of the delay for FY 2022-23 on compassionate grounds; the same circumstances, on a fair reading of the timeline, also bear upon the delay for FY 2021-22. Third, the Approval Committee, at its 196th meeting held on 03.03.2025, recorded that the Appellant had achieved positive NFE on a cumulative basis for the relevant years, indicating that the delay, while a serious lapse in regulatory compliance, did not result in any undue commercial advantage to the Appellant or in any adverse impact on the export performance monitored under the SEZ scheme. Fourth, the Appellant has since filed all outstanding APRs, appointed a new Chartered Accountant, and given an assurance of future compliance.

9.6 At the same time, this Authority is unable to accept the Appellant's characterisation of the violation as "purely technical" warranting a token penalty. The cumulative delay of 971 days across three consecutive financial years reflects a sustained pattern of non-compliance rather than an isolated lapse, and the sanctity of statutory timelines under the SEZ framework must be maintained. A total waiver of penalty is, therefore, not warranted. However, having regard to the cumulative effect of the mitigating factors discussed above, this Authority is of the view that the ends of justice would be served by a reduction, rather than a waiver, of the penalty imposed.

Order

01/92/180/50/AM26/PC6/40

Dated: 10.08 **2026**

For the reasons set out herein above, the appeal filed by M/s S.J. International against Order-in-Original dated 07.05.2025 is hereby partly allowed. The monetary penalty imposed on M/s S.J. International is hereby reduced from Rs. 2,95,000/- (Rupees Two Lakh Ninety-Five 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 demonstrated personal hardship, the subsequent filing of all outstanding APRs, and the achievement of positive NFE on a cumulative basis. 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 personal hardship shall, without more, be entertained as grounds for mitigation in any future proceedings.

The appeal stands disposed of in the above terms.

(Lav Agarwal)
Director-General of Foreign Trade

Copy To:

1. M/s S.J. International, Unit No. G-16, 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 and take note of the directions regarding future defaults.

3. DGFT's Website

(Sumit Verma)

Deputy Director General of Foreign Trade