



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2415 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI Sd/-

Approved for Reporting	Yes	No
	✓	

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ZAVERI AND CO.PVT.LTD.
 Versus
 ASSISTANT COMMISSIONER OF CUSTOMS

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Appearance:

MR JAIMIN R DAVE(7022) for the Petitioner(s) No. 1
 MS HIRVA R DAVE(10742) for the Petitioner(s) No. 1
 MS MANVI A DAMLE(10805) for the Petitioner(s) No. 1
 MR PARAM V SHAH(9473) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 24/02/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. **RULE.** Learned Senior Standing Counsel Ms.Patel waives service of notice of rule for and on behalf of the respondent(s).

2. Since a short issue is involved in the present writ petition, the same is taken up for final hearing today.

3. In the present writ petition, the petitioner has assailed the order dated 30.12.2025 passed by the respondent imposing penalty on the petitioner

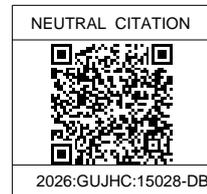


for alleged violation of Warehouse (Custody and Handling of Goods) Regulations, 2016 (for short "Warehouse Regulations").

FACTS:

4. The petitioner is into the business of import, processing of precious metals and has been undertaking imports and has been granted license on 10.06.2016 under Special Warehouse (Bonded Warehouse) under section 58A of the Customs Act, 1962 (for short "the Act"). On 29.01.2018, the petitioner surrendered its license and the same was accepted by the Principal Commissioner of Customs, Ahmedabad vide his intimation letter dated 08.03.2019. Thus, from 08.03.2019, the license granted to the petitioner under section 58A of the Act stood cancelled. Thus, the petitioner held the license from 10.06.2016 to 08.03.2019.

5. Almost after 05 years from the date of cancellation of the registration, the respondent issued a show-cause notice dated 01.02.2024 calling upon the petitioner for alleged violation of Regulation 11 of the Warehouse Regulations. The show-cause notice was issued by placing reliance on the audit report dated 16.12.2022 by alleging that the petitioner failed to manage



records in digital form, warehouse keeper has not obtained digital signature and failed to renew solvency certificate and risk insurance policy annually. The petitioner accordingly, responded to the show-cause notice on 12.08.2024 giving detailed reply pointing out that Regulation 11 of the Warehouse Regulations is not applicable to it. The petitioner also requested the respondent to supply a copy of the audit report in order to effectively respond to the show-cause notice however, without supplying the same, the petitioner was personally heard on 04.06.2025 and 14.10.2025 and thereafter, by the impugned order dated 30.12.2025, the respondent imposed penalty of Rs.30,000/- for respective violation of the Warehouse Regulations.

SUBMISSIONS

6. At the outset, learned advocate Mr.Dave appearing for the petitioner has submitted that the impugned order is required to be quashed and set aside since the mistaken provisions/regulations are invoked against the petitioner and since the petitioner has been granted Special Warehouse license under section 58A of the Act, the Special Warehouse (Custody and Handling of Goods) Regulations, 2016 (for short "Special Warehouse Regulations") would be



applicable in its case. It is submitted that the petitioner has been imposed penalty, after a period of almost 05 years from surrender of its license on 08.03.2019 on the basis of the audit report, which was never supplied to it. Thus, it is urged that the impugned order may be quashed and set aside.

7. Opposing the aforesaid submissions, learned Senior Standing Counsel Ms.Patel appearing for the respondent authority has submitted that after the petitioner surrendered its license in the year 2019, in the audit report dated 16.12.2022, discrepancies committed by the petitioner were realized and hence, the respondent authority issued show-cause notice inviting explanation of such discrepancies and violation of Regulation 11 of the Warehouse Regulations. It is submitted that since both, the Warehouse Regulations as well as the Special Warehouse Regulations, have been issued on the same date, it is always open for the respondent authority to rely upon either of these and hence, the impugned order of penalty may not be set aside. Finally, it is submitted that in case, this Court is inclined to set aside the order, the matter may be remanded to the respondent authority.



8. We have heard the learned advocates appearing for the respective parties and also perused the documents, as pointed out by them.

ANALYSIS

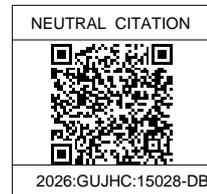
9. The facts, which are established from the record and pleadings, are that the petitioner was granted the license on 10.06.2016 under the provision of section 58A of the Act. This is evident from license at page No.25.

10. At this stage, we may mention that there are 03 categories of license provided under Chapter IX of the Act.

- (i) Section 57 - Public Warehouse.
- (ii) Section 58 - Private Warehouse
- (iii) Section 58A - Special Warehouse

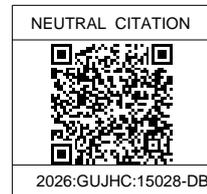
Thus, it is established that the petitioner was granted license of Special Warehouse under section 58A of the Act.

11. We may also mention that Special Warehouse Regulations were issued vide notification No.69/2016-Customs (N.T.) dated 14.05.2016 in exercise of the powers conferred under section 157 read with section 58A and sub-section (2) of section 73A of the Act. Thus, the license as well as



activities undertaken by the petitioner would be governed by the Special Warehouse Regulations.

12. Instead of undertaking proceedings under the Special Warehouse Regulations, the show-cause notice has been issued by the respondent on 01.02.2024 calling upon the petitioner alleging violation of the provisions of Regulations 11(1) (a), 4(c) and 3(2) of the Warehouse Regulations, 2016 read with Clause 8 of Circular No.26/2016 dated 09.06.2016 alleging that it has failed to manage records in digital form, warehouse keeper has not obtained digital signature and failed to renew solvency certificate and risk insurance policy annually. Thus, initiation of proceedings was illegal and under those regulations, which do not apply to the petitioner. The petitioner in its reply had categorically taken up such assertion that the Warehouse Regulations, 2016 would not apply in its case, but it would be Special Warehouse Regulations, 2016. Additionally, the ground, which was taken by the petitioner in its reply, is about non-supply of the audit report dated 16.12.2022 pursuant to which the show-cause notice dated 01.02.2024 has been issued for alleged violation. Despite having noticed such facts, the respondent authority



ultimately, passed the impugned order dated 30.12.2025 imposing penalty of Rs.30,000/-.

13. Thus, the impugned order is required to be quashed and set aside upon 02 grounds.

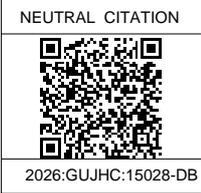
First, the impugned order is premised on the Warehouse Regulations, 2016 instead of Special Warehouse Regulations, 2016. The order specifically refers that the petitioner has violated Regulations 11(1)(a), 4(c) and 3(2) of the Warehouse Regulations, 2016. Albeit, analagous regulation 10(1)(a) though found place in Special Warehouse Regulations, 2016, there is no Regulation 11(1)(a) in these Regulations. Even if there are *pari materia* regulations in both the Regulations, i.e. Warehouse Regulations and Special Warehouse Regulations, however, the same *ipso facto* will not validate the proceedings, premised on the erroneous Regulations. If the intention of the framers of the regulations was to invoke either of the regulations, as canvassed before us, there was no need to issue two separate regulations governing the warehouses. The framers of the regulations were conscious of the fact that in the statutory provisions of Sections 57, 58 and 58A of the Act, different categories of warehouses are prescribed.



14. It is also not in dispute that the respondent has not supplied the audit report dated 16.12.2022 despite the same being asked by the petitioner. The entire proceedings were initiated on the basis of the audit report, which appears to have been prepared after request of surrender of license by the petitioner to the Joint Commissioner, Customs on 08.03.2019 was accepted. Thus, it was always open for the respondent to verify all the records of the petitioner before accepting surrender of its license however, no such exercise had been undertaken and after a period of 05 years, the petitioner is asked to face rigors of the penalty proceedings and ultimately, penalty of Rs.30,000/- has been imposed.

15. Furthermore, the respondent has not clarified the fixation of quantum of particular penalty of Rs.30,000/- i.e. Rs.10,000/- each for violation of the respective regulations has been fixed upon the petitioner.

16. Thus, on an overall analysis of the facts and regulations, we are of the considered opinion that the respondent has passed an illegal order and the same deserves to be quashed and set aside. Request for remand of the matter also does



not merit acceptance since the petitioner is sought to be roped in the proceedings, after a period of 05 years from the date of acceptance or request of surrender of license.

17. In view of the aforesaid observations, the present writ petition succeeds. The impugned order dated 30.12.2025 is hereby quashed and set aside. Rule made absolute. There shall be no order as to costs.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(PRANAV TRIVEDI, J)

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