



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
N. Senthil Kumar
General Manager

February 19, 2019
CEFA.CO.ID.11424 / C.A. No. AHM - 120 / 2018-19
Matter
Adani – Elbit Advanced Systems India Limited
(CIN: U74999GJ2016PLC094297)

Adani House, Near Mithakhali Circle, 56, Navrangpura, Ahmedabad – 380009

गुजरात / Gujarat

(Applicant)

In exercise of the powers conferred under Section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following order:



Order

The applicant has filed compounding application dated November 19, 2018 (received at Reserve Bank of India on November 26, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of paragraph 9 (1) (B) of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 notified, vide Notification No. FEMA 20/2000-RB dated 3rd May 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows:

The applicant company was incorporated on November 7, 2016 under the provisions of the Companies Act, 2013 (CIN: U74999GJ2016PLC094297). The company is engaged in the business of defence activity bearing NIC 2008 Code: 84220. The applicant company has received three inflows amounting to **₹14,19,77,047/-** from foreign investor Elbit Systems Limited, Israel under automatic route. Company has issued the shares for amount of **₹14,19,70,710/-** whereas, an excess amount of **₹6,334/-** was refunded and remaining amount **₹3/-** being insignificant was ignored.



3. Paragraph 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table A)

| Sr. No. | Name of Remitter | Amount of foreign inward remittance (₹) | Date of receipt | Date of reporting to RBI* | Days delay excluding prescribed time of 30 days |
|----------------|-------------------------|--|------------------------|----------------------------------|--|
| 1 | Elbit Systems Limited | 55,334 | 30-03-2017 | 21-04-2017 | No delay |
| 2 | -- do -- | 72,95,383 | 06-07-2017 | 05-08-2017 | No delay |

* The date for calculation of days delay under 9(1) (A) taken from date of inflow reporting by Company to AD.

Regulation 13.1(1) of Notification No. FEMA 20(R) /2017-RB dated November 7, 2017:

(Table B)

| Sr. No. | Name of Remitter | Amount of foreign inward remittance (₹) | Date of receipt | Date of reporting to RBI* | Days delay excluding prescribed time of 30 days |
|----------------|-------------------------|--|------------------------|----------------------------------|--|
| 3 | Elbit Systems Limited | 13,46,26,330 | 24-07-2018 | 22-08-2018 | No delay |
| | Total (A+B) | 14,19,77,047 | | | |

* The date for calculation of delay under 13.1 (1) taken as date of inflow reporting by Company to AD.

4. As indicated in the Table A and B above, the applicant reported the receipt of three inward remittances, amounting to ₹14,19,77,047/- to the Ahmedabad Regional Office of the Reserve Bank of India within the prescribed period of 30 days. Whereas, in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB and , Regulation 13.1(1) of Notification No. FEMA 20(R) /2017-RB dated November 7, 2017 an Indian company issuing shares in accordance with these Regulations should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration. Thus, the company does not stand to contravene the provisions stipulated in paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000 and Regulation 13.1(1) of Notification No. FEMA 20(R) /2017-RB dated November 7, 2017.



5. The applicant allotted equity shares and filed FC-GPRs as stated below:

Paragraph 9 (1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table - C)

| Sr. No. | Investor | Date of issue of shares | No of shares issued | Amount of shares (₹) | Date of reporting of FCGPR to RBI | Delay beyond prescribed time of 30 days |
|---------|-----------------------|-------------------------|---------------------|----------------------|-----------------------------------|---|
| 1 | Elbit Systems Limited | 31-03-2017 | 4,900 | 49,000 | 03-06-2017 | 34 |
| 2 | -- do -- | 24-07-2017 | 7,29,538 | 72,95,380 | 29-09-2018 | 402 |
| | Total C | | 7,34,438 | 73,44,380 | | |

* The date for calculation of days delay under 9(1) (b) taken from date of FC-GPR reporting by Company to AD.

Regulation 13.1(2) of Notification No. FEMA 20(R) /2017-RB dated November 7, 2017: (Contravention detected and regularised)

(Table -D)

| Sr. No. | Investor | Date of issue of shares | No of shares issued | Amount of shares (₹) | Date of reporting of FCGPR to RBI | Delay beyond prescribed time of 30 days |
|---------|-----------------------|-------------------------|---------------------|----------------------|-----------------------------------|---|
| 3 | Elbit Systems Limited | 27-07-2018 | 1,34,62,633 | 13,46,26,330 | 08-09-2018 | 13 (LSF Paid) |
| | Total (C+D) | | 1,41,97,071 | 14,19,70,710 | | |

* The date for calculation of days delay under 13.1 (2) taken from date of FC-GPR reporting by Company to AD.

6. As indicated in the Table C and D above, the applicant has filed three Form FC-GPRs amounting to ₹14,19,70,710/-. Out of three FC-GPRs forms, two Form FC-GPRs amounting to ₹73,44,380/- were filed with a delay ranging from 34 to 402 days approximately beyond the prescribed period of 30 days. Further, as per Table D above the company has filed the third FCGPR amounting to ₹13,46,26,330/- with a delay of 13 days approximately beyond the stipulated period of 30 days from the date



of allotment of shares. However, the delay has been regularised as the company has paid Late Submission Fee (LSF).

Whereas, in terms of paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to the Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor. Thus, the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1197/06.04.15 (A) CEFA /2018-19 dated February 14, 2019 for further submission in person and /or producing documents, if any, in support of the application. The applicant vide their letter dated February 16, 2019 has requested to dispose of their application on the basis of his compounding application and supporting documents submitted thereafter. The applicant company has sought an exemption from personal hearing with the Compounding Authority and has admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the applicant and they deeply regret the delay caused and has requested to take a lenient view. They also stated that they are willing to accept any direction / order of the Compounding Authority in connection with their compounding application.

8. The application for compounding is being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant.

9. It has been declared in the compounding application dated November 19, 2018 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking, furnished with



the compounding application that the applicant was not under any enquiry / investigation / adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry / investigation / adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

10. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

Paragraph 9 (1) (B) of Schedule 1 to FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of Form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹73,44,380/- and the delay is ranging from 34 to 402 days approximately.

11. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. However, taking into account the relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and therefore, I consider that amount of penalty of ₹18,360/- (Rupees Eighteen Thousand Three Hundred Sixty only) will meet the ends of justice.

12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9 (1) (B) to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the



applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹18,360/- (Rupees Eighteen Thousand Three Hundred Sixty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad –380 014 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad within a period of 15 days from the date of this order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed of accordingly.

Dated the 19th day of February 2019.

Sd/-

(N. Senthil Kumar)

General Manager