



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

R. K. Moolchandani
Chief General Manager

Date: January 31, 2020
CA No 4996/ 2019

In the matter of

Sona BLW Precision Forgings Limited
GF -19, Indraprakash, 21 Barakhamba Road,
New Delhi 110 001.

(Applicant)

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

Order

The applicant has filed the application dated August 05, 2019 (received in the Reserve Bank of India on August 08, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued thereunder. The contraventions admitted in the application for compounding are: (i) delay in filing Form ODI (ii) delay in receipt of share certificates (iii) delay in submission of Annual Performance Reports (APRs) (iv) non-repatriation of interest due on loan and (v) conversion of interest receivables into preference shares under ODI, pertaining to Regulation 6(2)(vi), 15(i), 15(iii), 15(ii) and 6(3)(ii)(b), respectively, of Foreign Exchange Management (Transfer



or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under:

The applicant company was incorporated on October 27, 1995 as 'Sona Okegawa Precision Forgings Ltd' and subsequently its name was changed to 'Sona BLW Precisions Forgings Ltd' in July 2013 (CIN: U27300DL1995PLC073456). The company is involved in the business of manufacturing precision forged components. The applicant had made overseas direct investment (ODI) to set up a wholly owned subsidiary (WOS) in Netherlands viz. "Sona Holding B.V."

The applicant company had made seven remittances during 2008-2017 to its WOS, for which there was a delay in filing Form ODI. There was a delay of eight months in receiving the share certificate against one of its equity remittances to the WOS. Further, it had extended a loan to its WOS in Netherlands in 2009, on which interest was not received by the applicant company during 2009-10. Subsequently, since the WOS was unable to pay the interest on the loan, the accrued interest amount on the loan was converted into redeemable preference shares in August 31, 2010, without prior approval of the Reserve Bank. The applicant company had also delayed filing its APRs with respect to its WOS for the years from 2009 to 2015 and 2017.

The transactions were taken on record by RBI – subject to compounding of the contraventions.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/3355/15.20.67/2019-20 dated December 31, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on January 14, 2020, during which the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made during the personal hearing with the Compounding Authority.



4. It has been declared in the compounding application dated August 05, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has also been declared in the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. 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.

5. I have given my careful consideration to the documents on record and submissions made during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 6(2)(vi), 15(i), 15(iii), 15(ii) and 6(3)(ii)(b) of Notification No.FEMA.120/2004-RB, dated July 07, 2004. The amount of contravention and period of contravention are as follows:

(i) Regulation 6(2)(vi) of FEMA 120/2004-RB, dated July 07, 2004 - Rs 162,79,14,988/- and the period of contravention ranges from eight days to ten years and eight months approximately

(ii) Regulation 15(i) of FEMA 120/2004-RB, dated July 07, 2004 – Rs. 46,55,36,00/- and the period of contravention is eight months approximately

(iii) Regulation 15(iii) of FEMA 120/2004-RB, dated July 07, 2004 – eight APRs were delayed (for the years from 2008 to 2014 and the year 2017)

(iv) Regulation 15(ii) of FEMA 120/2004-RB, dated July 07, 2004 – Rs. 17,47,62,647/- and the period of contravention ranges from fourteen days to three months approximately

(v) Regulation 6(3)(ii)(b) of FEMA 120/2004-RB, dated July 07, 2004 – Rs. 16,85,53,088/- and the period of contravention is nine years approximately.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case, it stands to reason that payment of an amount of Rs. 49,12,961/- (Rupees Forty nine lakhs twelve thousand nine hundred and sixty one only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 6(2)(vi), 15(i), 15(iii), 15(ii) and 6(3)(ii)(b) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs. 49,12,961/- (Rupees forty nine lakhs twelve thousand nine hundred and sixty one only) which shall be deposited by the applicant with the "The Chief General Manager – In – Charge, Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400001" by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 accordingly.

Dated this the 31st day of January, 2020

Sd/-
(R. K. Moolchandani)
Chief General Manager