



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
3rd Floor, Main Building
Ram Bagh Circle, Tonk Road
Jaipur-302 004

Present

Arun Kumar Singh
Regional Director for Rajasthan and
Chief General Manager, Jaipur

Date: April 30, 2019
C.A. JAI 16/2019

In the matter of

M/s. Y-Tec India Private Limited
SP2-104 TO 106, Japanese Zone
RIICO Industrial Complex (Majrakath)
Neemrana, Alwar
Rajasthan - 301705

(APPLICANT)

In exercise of the powers 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

The applicant has filed a compounding application dated February 13, 2019 received at Reserve Bank of India, Jaipur on February 26, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares; (ii) delay in submission of form FC-GPR on allotment of shares with Reserve Bank in terms of paragraph 9(1)(A) and paragraph 9(1)(B) respectively, 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 May 3, 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 was incorporated on September 13, 2011 under the provisions of the Companies Act, 1956 (Registration Number U35990RJ2011FTC048807) and is engaged in the business of Manufacture of other transport equipments n.e.c. such as pushcarts, handcarts etc. The applicant received foreign inward remittances on various occasions from 2011 to 2015 from (i) “Yamashita Rubber CO. Ltd. Japan” and (ii) “Y-Tec Co. Ltd. Thailand” towards subscription to equity shares and reported the same to the Reserve Bank of India. However, the company delayed FDI reporting on three occasions – as per the details mentioned below in Table ‘A’:

Table ‘A’

Sr.No	Amount of Inward Remittance in ₹	Date of Receipt	Date of Reporting	Delay in reporting in days (Para 9(1)(A))
1	12,00,00,000	09/12/2011	10/01/2012	2
2	10,00,00,000	29/08/2012	11/10/2012	13
3	22,00,00,000	17/09/2014	13/11/2014	27
Total	44,00,00,000			two days to 27 days

The applicant reported receipt of above mentioned remittances to the Reserve Bank of India, Jaipur on the dates indicated above with a delay ranging from two days to 27 days beyond the stipulated period of 30 days. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, an Indian company issuing shares or convertible debentures 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.

3. The applicant reported allotment of shares to the Reserve Bank of India, Jaipur on the dates indicated below (Table B) with a delay ranging from five days to 27 days beyond the stipulated period of 30 days. Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, an Indian company issuing shares or convertible debentures 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 issue of shares to person resident outside India.

Table 'B'

Sr.no.	Date of Allotment of Shares	Amount (₹) of Shares	Date of Reporting	Delay in reporting in days (Para 9(1)(B))
1	16/01/2012	15,00,00,000.00	22/02/2012	7
2	20/06/2012	9,00,00,000.00	09/08/2012	20
3	28/02/2013	10,00,00,000.00	04/04/2013	5
4	28/02/2013	8,00,00,000.00	04/04/2013	5
5	28/02/2013	21,00,00,000.00	04/04/2013	5
6	18/09/2014	22,00,00,000.00	14/11/2014	27
7	15/05/2014	13,00,00,000.00	25/06/2014	11
Total		98,00,00,000.00		five days to 27 days

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter FE.JP.No.899/2/06.10.431/2018-19 dated April 19, 2019 for further submission in person and/or producing documents, if any, in support of its application for compounding of contravention of the provisions of FEMA, 1999. The applicant company vide its e-mail dated April 25, 2019 had submitted that their authorised representative, Ms. Neetu Saini will be present for the personal hearing.



Accordingly, Ms. Saini visited the Bank on April 29, 2019 at 11:00 a.m. to present the case. During the meeting Ms. Saini accepted that her company had applied for compounding for contraventions of para 9(1)(A) and 9(1)(B) of Schedule I to FEMA 20/2000 - RB dated May 03, 2000. She also submitted that the delays were a result of procedural lapse and the company had no wilful or malafide intention. Ms. Saini requested to take a lenient view in the matter. The application for compounding is therefore, 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 during personal hearing and thereafter.

5. It has been declared in the undated declaration furnished with the compounding application that the applicant was not under enquiry/investigation/adjudication by Directorate of Enforcement. Accordingly, the above contraventions which are being compounded in 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.

6. I have given my careful consideration to the documents on record available with me. Accordingly, I hold that the applicant has contravened the following provisions of FEMA, 1999:

(a) Paragraph 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB i.e. delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹44,00,00,000.00 (Rupees Forty four crore only) with duration of contravention ranging from two days to 27 days.

(b) Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB i.e. delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India. The contravention relates to an amount of ₹98,00,00,000.00 (Rupees Ninety eight crore only) with the duration of contravention ranging from five days to 27 days.



7. In terms of Section 13 of the Foreign Exchange Management Act, 1999, any person contravening any provision of the Act shall be liable to pay a penalty upto 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 view that an amount of ₹ 84,000.00 (Rupees Eighty four thousand only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely contravention of paragraphs 9 (1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA.20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 84,000.00 (Rupees eighty four thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Jaipur – 302004 by way of a demand draft drawn in favour of the “Reserve Bank of India” and payable at Jaipur 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 03, 2000 shall apply.

The application is disposed of accordingly.

Dated this 30th day of April 2019

-Sd/-

(Arun Kumar Singh)

Regional Director for Rajasthan and
Chief General Manager, Jaipur.