



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad – 380014

Present
Santosh Kumar Panigrahy
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)

July 12, 2019
CEFA.CO.ID.11578 / C.A. No. AHM - 127 / 2018-19

Matter
Salaya Bulk Terminals Limited
(Formerly known as Hazira Coke Limited)
(CIN: U61100GJ2014PLC078242)
Post Box No. 7, Ta: Khambaliya, Dist: Dev Bhoomi Dwarka, Jamnagar - 361305

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 thereunder, I pass the following order:



Order

Salaya Bulk Terminals Limited (hereinafter referred to as applicant) has filed application dated March 13, 2019, complete in all respects, for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay beyond 30 days in submitting report in Form FC-GPR to the Reserve Bank, through AD bank, after the date of issue of shares to persons resident outside India, as required under 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 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 (formerly known as Hazira Coke Limited) was incorporated on January 10, 2014 under the provisions of the Companies Act, 1956 (CIN: U61100GJ2014PLC078242). The company is engaged in the service activities incidental to water transportation, bearing NIC Code - 2008: 52220. The applicant has issued 1,30,92,658 equity shares to persons resident outside India viz. (i) Essar Ports & Terminals Limited (Formerly known as Essar Port Holdings Mauritius Limited); (ii) Essar Shipping & Logistics Limited, Cyprus; (iii) Essar Global Limited, Cayman Islands; and (iv) Retail investors, amounting to ₹13,09,26,580/-, under the automatic route, pursuant to the composite scheme of arrangement (referred to as 'Scheme'), approved by the Hon'ble High Court of Gujarat on July 1, 2016, under a non-cash transaction.

3. The applicant allotted equity shares to persons resident outside India and filed FC-GPRs as below:



Reporting under Paragraph 9(1)(B) – Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000: Contravention detected

Sr. No.	Investors	Date of issue of shares	No of shares issued	Face value of shares (₹)	Date of reporting of FCGPR by AD bank to RBI*	Delay beyond prescribed time of 30 days
1	Essar Ports & Terminals Limited (Formerly known as Essar Port Holdings Mauritius Limited)	16.09.2016	1,30,83,215	13,08,32,150	17.12.2018	792
2	Essar Shipping & Logistics Limited, Cyprus	16.09.2016	1,669	16,690		
3	Essar Global Limited, Cayman Islands and	16.09.2016	3	30		
4	Other Retail investors (567 persons)	16.09.2016	7,771	77,710		
	Total		1,30,92,658	13,09,26,580		

* For calculation of days of delay under Para 9(1)(B), date of reporting to AD bank is taken as reporting to RBI.

4. As indicated in the Table above, the applicant has issued 1,30,92,658 equity shares amounting to ₹13,09,26,580/- to persons resident outside India on September 16, 2016. The applicant submitted the report in Form FC-GPR to the AD bank on December 17, 2018, with a delay of 792 days, beyond the prescribed period of 30 days from date of issue of shares.

5. In terms of regulation 5(1) of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No.FEMA 20/2000-RB), a person resident outside India (other than a citizen of Bangladesh or Pakistan) or an entity incorporated outside India (other than a citizen of Bangladesh or Pakistan) may purchase shares or convertible debentures or warrants of an Indian company under Foreign Direct Investment Scheme, subject to the terms and conditions



specified in Schedule I to the said Regulations. Paragraph 9(1)(B) of Schedule 1 to the Regulations mandates that an Indian company issuing shares in accordance with these Regulations is required to submit to the Reserve Bank of India through AD bank, a report in Form FC-GPR, as specified by the Reserve Bank from time to time, along with documents stipulated therein, within 30 days from the date of issue of shares to the overseas investor.

6. The applicant has failed to submit the report in Form FC-GPR within the time frame as required under Paragraph 9(1)(B) of Schedule 1 read with Notification No.FEMA 20/2000-RB, thereby contravening the provisions of the Notification No. FEMA 20/2000- RB dated May 3, 2000. The said regulations have been issued by the Reserve Bank of India in exercise of its powers under the provisions of the FEMA, 1999.

7. The applicant was given an opportunity for personal hearing vide letter FE.AH.No.1463/06.04.15(A)CEFA/2018-19 dated March 27, 2019 for further submission in person and/or producing documents, if any, in support of the application. Shri Perumal Konar, Jt. General Manager represented the applicant for the personal hearing held on June 24, 2019 at 4th Floor, Main Office Building, Reserve Bank of India, Ahmedabad. The representative of the applicant admitted to the contravention for which compounding has been sought and stated that the non-compliance was not intentional but was an inadvertent error on the part of the applicant. He expressed deep regret for the delay caused and stated on behalf of the applicant that he is willing to accept any direction/ order of the Compounding Authority in connection with their compounding application. The representative requested that a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the statements made in the application as well as other documents and submissions made in this context by the applicant/representative.

8. It has been declared in the compounding application 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 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 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.

9. I have given my careful consideration to the documents on record and submissions made by the applicant in his application as well as during the personal hearing. I am satisfied and hold that the applicant has contravened the statutory requirement 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 submitting report in Form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraphs 3 and 4 above. The amount of contravention involved is ₹13,09,26,580/- and the delay is of 792 days.

10. 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 an amount of ₹2,35,000/- (Rupees Two Lakh Thirty Five Thousand only) as penalty, will meet the ends of justice.

11. Accordingly, I compound the admitted contravention, namely contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 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 ₹2,35,000/-



(Rupees Two Lakh Thirty Five Thousand only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Box 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 12th day of July, 2019.

Sd/-

(Santosh Kumar Panigrahy)
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)