



In the

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

Present

S.Arumugam
Assistant General Manager

Date: January 10, 2019
CA No 4751 / 2018

In the matter of

Shapoorji Pallonji Oil and Gas Private Limited
Forbes Building, 2nd Floor, West Wing
Charanjit Rai Marg, Fort,
Mumbai 400001

(Applicant)

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

Order

The applicant has filed the application dated July 24, 2018 (received at the Reserve Bank on July 24, 2018) 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) Delayed reporting of Overseas Direct Investment (ODI) and (ii) Method of Funding of ODI through the existing Joint Venture (JV) of the applicant in Singapore. The above amount to the contravention of Regulations



6(2) (vi) and 6(3) 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 Shapoorji Pallonji Oil and Gas Pvt Ltd (Formerly known as Cosima Properties Private Limited) is a Company incorporated in the year 2012, in India under the Companies Act, 1956 (CIN: U11100MH2012PTC234446). The applicant company is engaged in the business of providing support services for petroleum and natural gas mining activities. The applicant has set-up a JV, Karapan Armada Madura Pte Ltd in Singapore with 51% of stake with a Foreign Party, Bumi Armada offshore holdings limited which is holding 49 % of stake in the JV. The overseas JV was incorporated on October 02, 2017. The Pre incorporation charges amounting to SGD 10201 (INR 4,90,406) for setting up of this JV was paid by the applicant's existing JV in Singapore, S. P. Engineering Pte. Ltd. These pre incorporation charges were later capitalized and share certificates were issued in the name of applicant company. This method of funding of ODI is not in compliance with Regulation 6(3) Notification.No.FEMA.120/RB-2004 dated July 7, 2004 as amended from time to time. Further, Form ODI part I for the aforesaid transaction was submitted with a delay on November 10, 2018 which is not in compliance with the Regulation 6(2) (vi) of Notification No. FEMA 120/RB-2004 dated July, 2004 as amended from time to time. RBI gave post facto approval by allotting UIN BYJRN20180299 on March 12, 2018.

3. In terms of Regulation 6(2)(vi) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, Overseas Direct Investment is permitted in certain cases provided “ the Indian Party submits Part I of the Form ODI, duly completed, to the designated branch of an authorized dealer”.

Further, in terms of Regulation 6(3) of Notification ibid “Investment under this Regulation may be funded out of one or more of the following sources, namely:

- (i) Out of the balance held in Exchange Earners' Foreign Currency account of the Indian Party maintained with an authorized dealer in accordance with Regulation 4 of Foreign Exchange Management



(Foreign Currency accounts by a person resident in India) Regulations, 2000;

- (ii) drawal of foreign exchange from an authorized dealer in India shall not exceed 100% or as decided by the Reserve Bank from time to time, of the net worth of the Indian Party as on the date of last audited balance sheet.....

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA/3097/15.20.67/2018-19 dated November 27, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on December 10, 2018 during which Mr. V. Sethuraman, CFO, and Ms Anvi Rajiv Shah, AGM, Finance Shapoorji Pallonji Oil and Gas Private Limited, represented the applicant. The representative, of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and was unintentional. 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.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulations 6(2) (vi) and 6 (3) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time. The amount of contravention is INR 4, 90,406/- and period of contravention six months approximately.

6. It has been declared in the compounding application dated July 24, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the Annex III of the Compounding Application dated July 24, 2018, that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application. 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.

7. 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 I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 63,452/- (Rupees Sixty three thousand four hundred and fifty two only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 6(2)(vi) and 6(3) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 63,452/- (Rupees Sixty Three thousand Four hundred and Fifty Two only) which shall be deposited by the applicant with the 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 tenth day of January, 2019

Sd/-

(S Arumugam)
Assistant General Manager