



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11<sup>th</sup> Floor, Central Office Building  
Shahid Bhagat Singh Marg  
Mumbai - 400 001

Present

**Neena Asthana Amin**  
**Deputy General Manager**

Date: January 28, 2020  
CA No 5024/ 2019

In the matter of

**M/s Dalmia Cement (Bharat) Limited**  
**(Legal Successor of OCL India Ltd.)**  
**7<sup>th</sup> Floor, Hansalaya, 15 Barakhamba Road**  
**New Delhi -110001**  
**(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 30, 2019 (received at the Reserve Bank of India on October 04, 2019) for compounding of contraventions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded pertain to failure in realizing the export proceeds (by the erstwhile OCL India Ltd.) within the stipulated time period.



The above amount to the contravention of Regulation 9 of Foreign Exchange Management (Export of Goods & Services) Regulations, 2000 notified vide Notification No. FEMA 23/2000-RB dated May 03, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 23/2000-RB).

2. The relevant facts of the case are as under: The applicant company M/s Dalmia Cement (Bharat) Limited (the legal successor of M/s OCL India Limited, consequent upon a merger ordered by NCLT vide order dated 18.07.2019) is engaged in the business of export of refractory materials, cement, etc.

The erstwhile M/s OCL India Limited was a 'Star Export House' engaged in the the business of export of refractory materials, cement, etc. had made exports under 13 different invoices between February 2008 to May 2012. It was not able to realize and repatriate the export proceeds pertaining to 13 invoices, within the stipulated time period of six months (applicable upto 03.06.2008) and twelve months (as applicable subsequently), thereby contravening the provisions of Regulation 9 of Notification No. FEMA 23/2000-RB dated May 03, 2000. Subsequently, M/s OCL India Limited had written off the amount in its books. Since the company was under investigation by DoE, the above bills could not be written-off by the applicant on its own or by their AD bank. The applicant was advised to approach Reserve Bank of India (RBI), through their AD bank for approval/regularisation of the transaction. The applicant, instead, preferred to file a petition in the Hon'ble High Court of Delhi. The Hon'ble Court disposed of the matter with the directions to the Petitioner to apply for compounding again to the RBI along with fresh fee for compounding. In view of the above directions, the compounding application is being processed.

3. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA/3362/15.20.67/2019-20 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 17, 2020. The representative of the applicant submitted that the failure to comply with the FEMA regulations was inadvertent and 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.



4. It has been declared in the compounding application dated August 30, 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 been declared in the declaration dated August 30, 2019 furnished with the compounding application that OCL India Ltd. which was merged with/vested into Dalmia Cement (Bharat) Limited as per terms of NCLT order dated April 20, 2018, was under and continues to be under investigation by Directorate of Enforcement (DoE) as on the date of the application. It has further been declared that no appeal has been filed by OCL India Ltd. under Section 17 or Section 19 of FEMA, 1999. Accordingly, RBI vide letter No. FE.CO.CEFA/1914/15.20.67/2018-19, dated October 15, 2019 and subsequent reminder No. FE.CO.CEFA/2567/15.20.67/2019-20, dated November 19, 2019 had sought No objection certificate (NOC) from DoE to proceed with the compounding process. DoE vide its letter No. T-4/FEMA/18/DLZO-II/2017/12886 dated December 10, 2019 has confirmed its 'no objection' to compounding by RBI in the matter. 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 by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 9 of Notification No. FEMA 23/2004-RB dated May 03, 2000 as amended from time to time.

The total amount of contravention for Regulation 9 is Rs. 39,22,447/-. The period of contravention is approximately eleven years.

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. 79,419/- (Rupees Seventy Nine Thousand Four Hundred and Nineteen only), will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, the admitted contraventions committed by the applicant namely, Regulation 9 of Notification No. FEMA 23/2000-RB dated May 03, 2000 as amended from time to time, on payment of a sum of Rs. 79,419/- (Rupees Seventy Nine Thousand Four Hundred and Nineteen only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> Floor, Amar Building, Fort, Mumbai- 400 001 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 28<sup>th</sup> day of January, 2020

**Sd/-**  
**(Neena Asthana Amin)**  
**Deputy General Manager**