



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: October 10, 2019
C.A. HYD 433

In the matter of

M/s. Felguera Gruas India Private Limited
Door No-10-50-24/A, 3rd & 4th Floor
Opposite HSBC Call Center, Siripuram Junction
Vishakhapatnam – 530 003

(Applicant)

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

Order

The applicant has submitted the compounding application dated May 27, 2019 received by us on June 14, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity, (ii) delay in submission of form FC-GPRs to the Reserve Bank after issue of shares to a person resident outside India, in terms of Paragraph 9(1)(A) and



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 3rd May 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on December 02, 2009 (CIN: U74900AP2009PTC066058). The company is engaged in the business of “Construction and maintenance of industrial facilities such as refineries, chemical plants etc”.
- b) The applicant had received foreign inward remittances from the following foreign investors as indicated below:

S. No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Felguera Gruas Y Almacenaje S.A	7,20,000	29-03-2010	23-04-2010
2	Acervo, S.A.	1,80,000	29-03-2010	23-04-2010
3	Duro Felguera, S.A.	5,00,00,000	28-03-2014	09-04-2014
4	Duro Felguera, S.A.	6,00,00,000	02-09-2014	10-09-2014
5	Duro Felguera, S.A.	16,94,25,000	10-03-2015	06-04-2015
6	Duro Felguera, S.A.	16,95,46,575	25-03-2015	20-04-2015
7	DF Operaciones Y Montajes, S.A.	5,78,425	25-03-2015	20-04-2015
8	Duro Felguera, S.A.	35,99,05,000	02-02-2016	19-02-2016
9	Duro Felguera, S.A.	5,73,72,700	29-02-2016	29-04-2016
10	Duro Felguera, S.A.	37,50,06,750	21-03-2016	02-05-2016
11	Duro Felguera, S.A.	49,49,36,775.90	19-07-2016	03-08-2016
12	DF Operaciones Y Montajes, S.A.	2,97,136.35	22-07-2016	03-08-2016
13	Duro Felguera, S.A.	41,00,00,000	28-10-2016	18-11-2016
14	Duro Felguera, S.A.	54,24,70,919.20	16-12-2016	09-01-2017
15	Duro Felguera, S.A.	11,33,56,976.15	19-12-2016	09-01-2017
16	DF Operaciones Y Montajes, S.A.	3,27,642.10	19-12-2016	09-01-2017
17	Duro Felguera, S.A.	3,59,80,850	30-03-2017	23-09-2019



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S. No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
18	DF Operaciones Y Montajes, S.A.	18,000	27-04-2017	20-06-2017
19	Duro Felguera, S.A.	3,49,82,000	15-05-2017	14-07-2017
20	DF Operaciones Y Montajes, S.A.	18,000	15-05-2017	14-07-2017
21	Duro Felguera, S.A.	1,79,91,000	23-06-2017	26-08-2017
22	DF Operaciones Y Montajes, S.A.	9,000	23-06-2017	26-08-2017
23	Duro Felguera, S.A.	1,84,91,000	02-08-2017	11-08-2017
24	DF Operaciones Y Montajes, S.A.	9,000	02-08-2017	11-08-2017
25	Duro Felguera, S.A.	1,87,41,000	01-09-2017	16-11-2017
26	DF Operaciones Y Montajes, S.A.	9,000	01-09-2017	16-11-2017
27	Duro Felguera, S.A.	1,92,41,000	18-09-2017	16-11-2017
28	DF Operaciones Y Montajes, S.A.	9,000	18-09-2017	16-11-2017
29	Duro Felguera, S.A.	3,91,80,000	27-09-2017	16-11-2017
30	DF Operaciones Y Montajes, S.A.	20,000	27-09-2017	16-11-2017
31	Duro Felguera, S.A.	2,94,85,000	08-11-2017	25-04-2018*
32	DF Operaciones Y Montajes, S.A.	15,000	08-11-2017	25-04-2018*
33	Duro Felguera, S.A.	1,91,40,000	18-12-2017	24-05-2018*
34	DF Operaciones Y Montajes, S.A.	10,000	18-12-2017	24-05-2018*
35	Duro Felguera, S.A.	1,25,28,000	12-01-2018	01-05-2018*
36	DF Operaciones Y Montajes, S.A.	6,000	11-01-2018	01-05-2018*
37	Duro Felguera, S.A.	3,44,83,000	28-02-2018	01-05-2018*
38	DF Operaciones Y Montajes, S.A.	17,000	28-02-2018	01-05-2018*
39	Duro Felguera, S.A.	3,99,80,000	26-03-2018	01-05-2018*
40	DF Operaciones Y Montajes, S.A.	20,000	26-03-2018	01-05-2018*
41	Duro Felguera, S.A.	1,81,91,000	10-04-2018	01-05-2018
42	DF Operaciones Y Montajes, S.A.	9,000	10-04-2018	01-05-2018
43	Duro Felguera, S.A.	3,39,13,000	08-05-2018	24-07-2018*
44	DF Operaciones Y Montajes, S.A.	17,000	08-05-2018	24-07-2018*
45	Duro Felguera, S.A.	2,82,86,000	15-06-2018	14-08-2018*
46	DF Operaciones Y Montajes, S.A.	14,000	15-06-2018	16-08-2018*
47	Duro Felguera, S.A.	1,97,00,000	15-06-2018	14-08-2018*
48	Duro Felguera, S.A.	1,00,00,000	08-06-2018	29-06-2018
49	Duro Felguera, S.A.	1,85,76,000	06-06-2018	24-07-2018*
50	DF Operaciones Y Montajes, S.A.	24,000	06-06-2018	24-07-2018*
51	Duro Felguera, S.A.	1,00,00,000	08-06-2018	29-06-2018
52	Duro Felguera, S.A.	3,99,75,000	15-06-2018	14-08-2018*
53	DF Operaciones Y Montajes, S.A.	25,000	28-06-2018	16-08-2018*
54	Duro Felguera, S.A.	2,60,67,000	15-06-2018	24-07-2018*
55	DF Operaciones Y Montajes, S.A.	13,000	15-06-2018	24-07-2018*



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S. No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
56	Duro Felguera, S.A.	1,98,40,000	17-07-2018	14-08-2018
57	DF Operaciones Y Montajes, S.A.	10,000	13-07-2018	16-08-2018*
58	Duro Felguera, S.A.	2,00,00,000	23-07-2018	14-08-2018
59	Duro Felguera, S.A.	7,99,50,000	16-07-2018	14-08-2018
60	DF Operaciones Y Montajes, S.A.	50,000	23-07-2018	28-08-2018*
61	Duro Felguera, S.A.	1,39,93,000	21-08-2018	Not Required
62	DF Operaciones Y Montajes, S.A.	7,000	21-08-2018	Not Required
63	Duro Felguera, S.A.	4,22,44,000	04-09-2018	Not Required
64	DF Operaciones Y Montajes, S.A.	21,000	04-09-2018	Not Required
65	Duro Felguera, S.A.	62,68,000	28-09-2018	Not Required
66	Duro Felguera, S.A.	5,00,00,000	28-09-2018	Not Required
67	Duro Felguera, S.A.	80,00,000	28-09-2018	Not Required
68	DF Operaciones Y Montajes, S.A.	32,000	01-10-2018	Not Required
69	Duro Felguera, S.A.	3,34,77,723	05-10-2018	Not Required
70	Duro Felguera, S.A.	1,62,71,277	05-10-2018	Not Required
71	DF Operaciones Y Montajes, S.A.	26,000	06-10-2018	Not Required
72	Duro Felguera, S.A.	30,00,000	12-10-2018	Not Required
73	Duro Felguera, S.A.	47,58,000	01-11-2018	Not Required
74	DF Operaciones Y Montajes, S.A.	2,000	01-11-2018	Not Required
75	Duro Felguera, S.A.	8,94,95,000	05-12-2018	Not Required
76	DF Operaciones Y Montajes, S.A.	45,000	05-12-2018	Not Required
77	Duro Felguera, S.A.	49,00,000	03-01-2019	Not Required
78	DF Operaciones Y Montajes, S.A.	2,000	18-01-2019	Not Required
79	Duro Felguera, S.A.	1,70,91,000	18-01-2019	Not Required
80	DF Operaciones Y Montajes, S.A.	7,820	29-01-2019	Not Required
Total		3,73,88,07,569.70		

For SI Nos. 61 to 80, reporting is not required, since reporting of inward remittances in form ARF has been discontinued with effect from September 01, 2018, by amendment to Notification No. FEMA 20(R)(3)/2018 dated August 30, 2018.

*** Late Submission Fee for the transactions undertaken after November 07, 2017 has been levied.**

The applicant reported receipt of remittances towards share subscription amounting to ₹ 2,98,88,22,749.70 from 23.04.2010 to 16.11.2017 to the Regional Office of Reserve Bank of India, out of which remittances amounting to ₹ 59,85,78,300/- were reported with delays ranging from 12 days to 2 years 4 months 25 days



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approximately as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, 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.

c) The company allotted equity shares and filed form FC-GPRs as indicated below:

S. No	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	Felguera Gruas Y Almacenaje S.A.	29-03-2010	720	7,20,000	20-10-2010
2	Acervo, S.A.		180	1,80,000	
3	Duro Felguera, S.A.	31-03-2014	50,000	5,00,00,000	30-04-2014
4	Duro Felguera, S.A.	10-09-2014	60,000	6,00,00,000	12-12-2014
5	Duro Felguera, S.A.	25-03-2015	338971	33,89,71,000	21-04-2015
	DF Operaciones Y Montajes, S.A.		578	5,78,000	
6	Duro Felguera, S.A.	03-02-2016	3,59,905	35,99,05,000	03-03-2016
7	Duro Felguera, S.A.	29-02-2016	57,372	5,73,72,000	16-05-2016
8	Duro Felguera, S.A.	22-03-2016	3,75,006	37,50,06,000	16-05-2016
9	Duro Felguera, S.A.	20-07-2016	4,94,936	49,49,36,000	20-08-2016
10	DF Operaciones Y Montajes, S.A.	25-07-2016	297	2,97,000	22-08-2016
11	Duro Felguera, S.A.	28-10-2016	4,10,000	41,00,00,000	26-11-2016
12	Duro Felguera, S.A.	22-12-2016	5,42,470	54,24,70,000	19-01-2017
13	Duro Felguera, S.A.	22-12-2016	1,13,356	11,33,56,000	19-01-2017



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S. No	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
	DF Operaciones Y Montajes, S.A.		327	3,27,000	
14	Duro Felguera, S.A.	31-03-2017	35,980	3,59,80,000	23-09-2019
15	DF Operaciones Y Montajes, S.A.	14-06-2017	36	36,000	14-07-2017
	Duro Felguera, S.A.		34,982	3,49,82,000	
16	Duro Felguera, S.A.	11-08-2017	36,482	3,64,82,000	07-06-2018
	DF Operaciones Y Montajes, S.A.		18	18,000	
17	Duro Felguera, S.A.	12-09-2017	18,741	1,87,41,000	06-06-2018
	DF Operaciones Y Montajes, S.A.		9	9,000	
18	Duro Felguera, S.A.	18-09-2017	19,241	1,92,41,000	06-06-2018
	DF Operaciones Y Montajes, S.A.		9	9,000	
19	Duro Felguera, S.A.	23-10-2017	39,180	3,91,80,000	06-06-2018
	DF Operaciones Y Montajes, S.A.		20	20,000	
20	Duro Felguera, S.A.	04-12-2017	29,485	2,94,85,000	06-06-2018*
	DF Operaciones Y Montajes, S.A.		15	15,000	
21	Duro Felguera, S.A.	19-12-2017	19,140	1,91,40,000	06-06-2018*
	DF Operaciones Y Montajes, S.A.		10	10,000	
22	Duro Felguera, S.A.	25-01-2018	12,528	1,25,28,000	06-06-2018*



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S. No	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
	DF Operaciones Y Montajes, S.A.		6	6,000	
23	Duro Felguera, S.A.	16-03-2018	34,483	3,44,83,000	06-06-2018*
	DF Operaciones Y Montajes, S.A.		17	17,000	
24	Duro Felguera, S.A.	23-03-2018	39,980	3,99,80,000	31-12-2018*
	DF Operaciones Y Montajes, S.A.		20	20,000	
25	Duro Felguera, S.A.	26-04-2018	18,191	1,81,91,000	06-06-2018*
	DF Operaciones Y Montajes, S.A.		9	9,000	
26	Duro Felguera, S.A.	11-05-2018	33,913	3,39,13,000	24-12-2018*
	DF Operaciones Y Montajes, S.A.		17	17,000	
27	Duro Felguera, S.A.	28-06-2018	1,52,604	15,26,04,000	29-06-2019*
	DF Operaciones Y Montajes, S.A.		76	76,000	
28	Duro Felguera, S.A.	03-08-2018	1,19,790	11,97,90,000	05-02-2019*
	DF Operaciones Y Montajes, S.A.		60	60,000	
29	Duro Felguera, S.A.	29-09-2018	56,237	5,62,37,000	02-08-2019*
	DF Operaciones Y Montajes, S.A.		28	28,000	
30	Duro Felguera, S.A.	20-11-2018	1,21,774	12,17,74,000	16-07-2019*
	DF Operaciones Y Montajes, S.A.		60	60,000	
31	Duro Felguera, S.A.	01-02-2019	1,11,486	11,14,86,000	25-07-2019*



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S. No	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
	DF Operaciones Y Montajes, S.A.		54	54,000	
	Total		37,38,799	3,73,87,99,000	

***Late Submission Fee for the transactions undertaken after November 07, 2017 has been levied.**

The applicant filed form FCGPRs for the allotment of shares from 29.03.2010 to 23.10.2017 amounting to ₹ 2,98,88,16,000/- as indicated above, out of which ₹ 1,13,78,94,000/- were reported with delays ranging from 1 day to 2 years 4 months 24 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/ 806 /14.66.003/2019-20 dated October 03, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on October 09, 2019 during which Shri. G. Vamsi Krishna, Project Manager represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was mainly due to administrative constraints. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The



application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to **₹ 59,85,78,300/-** and the period of contravention ranges from 12 days to 2 years 4 months 25 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of **₹ 1,13,78,94,000/-** and the period of contravention ranges from 1 day to 2 years 4 months 24 days approximately.

5. It has been declared in the compounding application dated May 27, 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 May 27, 2019 furnished 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 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.



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. 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 contravention is to be compounded and I consider that an amount of **₹ 4,74,322 /- (Rupees Four Lakh Seventy Four Thousand Three Hundred Twenty Two Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 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 **₹ 4,74,322 /- (Rupees Four Lakh Seventy Four Thousand Three Hundred Twenty Two Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 this 10th day of October 2019.

Sd/-

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)