



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, NCOB
Shahid Bhagat Singh Marg
Mumbai - 400 001

Present

Ajay Kumar Misra
Chief General Manager

Date: December 11, 2019
CA No 4972/ 2019

In the matter of

Siemens Industry Software (I) Pvt Ltd.
E-20, 1st & 2nd floor, Hauz Khas,
New Delhi 110 016.

(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 June 21, 2019 (received in the Reserve Bank on July 11, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are: (i) delay in reporting of foreign inward



remittances received with respect to FDI (ii) delay in submission of FC-GPR form for issue and allotment of equity shares with respect to the FDI and (iii) delay in submission of FC-GPR form in respect of allotment of shares to non-resident shareholders pursuant to the scheme of amalgamation entered into with an Indian company.

The above transactions resulted in contravention of (i) Para 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB and Regulation 13.1.(1) of Notification No. FEMA 20R/2017-RB (hereinafter referred to as FEMA 20/20R) (ii) Para 9(1)(B) of Schedule 1 to FEMA 20 and Regulation 13.1.(2) of FEMA 20R and (iii) Regulation 7 of FEMA 20.

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

The applicant company was originally incorporated as Structural Dynamics Research Corporation (SDRC) India Pvt Ltd in 1998. The name was subsequently changed to Siemens Product Lifecycle Management Software India Pvt Ltd and then finally to Siemens Industry Software (India) Private Limited in 2010 (CIN: U12500DL1198PTC094315).

The applicant company had received inward remittances in multiple tranches during the period from 1998 to 2003, from M/s Siemens USA towards subscription to equity shares of the applicant company amounting to Rs 2,73,00,000/-. The details of the receipt of inward remittances for issue of shares was reported to RBI with a delay beyond the prescribed period which resulted in a contravention of Para 9(1)(A) of Schedule 1 to FEMA 20 and Regulation 13.1.(1) of FEMA 20R.

The applicant company had allotted shares against the abovementioned foreign inward remittances in 2003. However, there was a delay in submission of FC-GPR form for the issue and allotment of the equity shares which resulted in a violation of para 9(1)(B) of Schedule 1 to FEMA 20 and Regulation 13.1.(2) of FEMA 20R.

Further in July 2016, the applicant company had entered into a scheme of amalgamation with M/s LMS India, under which it allotted 525,168 equity shares to non-resident



shareholders of M/s LMS India in July 2016, amounting to Rs 52,51,680/-. The applicant company filed the FC-GPR form in respect of the allotment in December 2018- with a delay beyond the prescribed period, in contravention of Regulation 7 of FEMA 20.

The administrative action was deemed to be completed when the applicant reported the transactions in FIRMS to RBI in May 2019.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2615 /15.20.67/2019-20 dated November 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing was held on November 28, 2019 which was attended by the representative of the applicant. The representative of the applicant submitted that the contraventions committed by the company were inadvertent and it was also requested that a lenient view may be taken in the matter.

4. It has been declared in the compounding application dated June 21, 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 also been declared in the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. 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 during the personal hearing. It was observed that the applicant has contravened the provisions of (i) Para 9(1)(A) of Schedule 1 to FEMA 20 and Regulation 13.1.(1) of FEMA 20R (ii) Para 9(1)(B) of Schedule 1 to FEMA 20 and Regulation 13.1.(2) of FEMA



20R and (iii) Regulation 7 of FEMA 20. The amount of contravention is as follows: (i) Rs. 2,73,00,000/- (ii) Rs. 2,73,00,000/- and (iii) Rs. 52,51,680/-. The period of contravention is approximately eighteen years and nine months.

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. Therefore, after considering the submissions made by the applicant with regard to the contraventions and the entire facts and circumstances of the case, it stands to reason that payment of an amount of Rs. 17,59,417/- (Rupees Seventeen lakhs fifty nine thousand four hundred and seventeen 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, (i) Para 9(1)(A) of Schedule 1 to FEMA 20 and Regulation 13.1.(1) of FEMA 20R (ii) Para 9(1)(B) of Schedule 1 to FEMA 20 and Regulation 13.1.(2) of FEMA 20R and (iii) Regulation 7 of FEMA 20, as amended from time to time, on payment of a sum of Rs. 17,59,417/- (Rupees Seventeen lakhs fifty nine thousand four hundred and seventeen only) which shall be deposited by the applicant with "The Chief General Manager – In – Charge, 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 11th day of December, 2019

Sd/-

(Ajay Kumar Misra)

Chief General Manager