



In the

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

Present

R. K. Moolchandani
Chief General Manager

Date: January 23, 2020
CA No 4984/ 2019

In the matter of

Vulcan Industrial Engineering Company Limited
Survey No 1091, Sunav Kasor Road,
Piplav, Dist. Anand
Gujarat - 388460

(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 July 17, 2019 (received in the Reserve Bank of India on July 29, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions are: (a) Delay in submission of Form ODI for pre-incorporation charges capitalised and for other remittances, (b) Non – reporting of changes in capital structure of overseas entity within the prescribed period and (c) Delay in submission of APRs for the years 2014-2018



- of Regulation 6(2)(vi), Regulation 13 and Regulation 15(iii), respectively 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 company was originally incorporated as Vulcan Industrial Engineering Company Ltd on July 30, 1971 (CIN U74210MH1971PTC015257) and later changed into a private limited company in June 2019. It is engaged in manufacturing of heavy earth moving machinery spares, industrial gearboxes and drilling accessories. The company had made overseas direct investment (ODI) in a joint venture (JV), "M/s VA Mining Pty Ltd" in Australia, in March 2014. A sum of AUD 15000 which was initially remitted by the applicant company, was capitalized in the books of the JV in June 2014 and thereafter 10 remittances amounting to AUD 0.205 million were made during March- December 2015 towards equity, but the form ODI in respect of the ODI transactions were submitted with a delay in 2018.

Subsequently, two resident Indians (RIs) had remitted AUD 155,898.92 in September 2014 in the overseas JV but the change in capital structure was not reported within the prescribed period of 30 days. Further, the annual performance reports (APRs) for the years 2014-2018 were reported with a delay. The transactions have been taken on record, subject to compounding.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2622/15.20.67/2019-20 dated November 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant chose to forego the option of personal hearing with the Compounding Authority vide their letter dated November 26, 2019. The application is, therefore, being considered on the basis of the averments made, the documents produced, and submissions made by the applicant in the application.



4. It has been declared in the compounding application dated July 17, 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 by the applicant. It was observed that the applicant has contravened the provisions of Regulation 6(2)(vi), Regulation 13 and Regulation 15(iii) of Notification No.FEMA.120/2004-RB. The amount and period of contravention involved is as follows:

(i) Regulation 6(2)(vi) - Rs 1,08,37,724/- and the period of contravention is from two years and six months to four years

(ii) Regulation 13 – Rs. 86,00,000/- and the period of contravention is from October 25, 2014 (date of first remittance) to January 01, 2019 (date of taking on record the remittances of resident individuals).

(iii) Regulation 15(iii) – five APRs delayed for the years 2014-2018

6. In terms of Section 13 of the FEMA, any person contravening the provisions 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. 1,61,208/- (Rupees one lakh sixty one thousand two hundred and eight only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed



by the applicant namely, Regulation 6(2)(vi), Regulation 13 and Regulation 15(iii) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs. 1,61,208/- (Rupees one lakh sixty one thousand two hundred and eight only) which shall be deposited by the applicant with the "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 23rd day of January, 2020

Sd/-
(R. K. Moolchandani)
Chief General Manager