



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: April 25, 2019
C.A. HYD 392

In the matter of

M/s. Arjas Steel Pvt Ltd
(Formerly known as Gerdau Steel India Pvt Ltd)
Jambulapadu Village, Tadipatri Mandal
Ananthpur District, Andhra Pradesh- 515 411

(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 filed the compounding application dated December 20, 2018 received on January 1, 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 receipt of foreign inward remittances and (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity (iii) delay in refund of share application money to the foreign investor beyond 180 days from the date receipt of foreign inward remittance in terms of Paragraph



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9(1)(A), Paragraph 9(1)(B) and Paragraph 8 respectively of Schedule 1 to Foreign Exchange Management Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated May 03, 2000, as then applicable and amended from time to time (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 M/s SKJ Steel Plant Limited Company under the Companies Act, 1956 on 16.03.1993 (CIN: U27109AP1993PTC015499). The company is engaged in the business of manufacturing pig iron and spiegeleisen pigs, blocks or other primary forms, steel in ingots or other primary forms, other semi-finished products of steel, hot rolled and cold rolled products of steel. The name of the company has been changed to M/s Arjas Steel Pvt Ltd with effect from 21.12.2018.
- b) The applicant had received foreign inward remittances from the foreign investors as indicated below:

SI No	Name of Remitter	Amount (INR)	Date of Receipt	Date of Reporting
1	Gerdau Holdings Europa (formerly known as Corporacion Sidenor)	79,11,75,000.00	12.12.2007	16.06.2008
2		210,20,83,128.00	02.05.2008	22.05.2008
3		24,94,26,447.00	20.02.2009	11.03.2009
4		28,60,20,000.00	28.05.2009	26.06.2009
5		65,62,83,189.00	27.01.2010	26.06.2010
6		30,82,84,704.00	29.04.2010	19.07.2010
7		22,44,99,569.00	29.12.2010	14.01.2011
8		5,46,77,929.00	26.03.2011	02.05.2011
9		45,54,62,434.00	21.04.2011	02.05.2011
10		22,60,95,155.00	30.06.2011	04.07.2011
11		15,82,95,251.00	01.08.2011	08.08.2011
12		16,64,95,005.00	30.08.2011	06.09.2011



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13	Gerdau Holdings Europa (formerly known as Corporacion Sidenor)	26,25,95,076.00	21.09.2011	27.09.2011
14		118,34,50,487.00	29.09.2011	05.10.2011
15		49,61,56,087.00	01.02.2012	22.02.2012
16		49,59,71,106.00	09.03.2012	26.03.2012
17		153,64,03,238.00	28.03.2012	10.04.2012
18		315,65,86,529.00	21.05.2012	28.05.2012
19		183,60,93,622.26	04.09.2012	28.09.2012
20		260,09,51,646.41	20.12.2012	18.01.2013
21		76,09,21,698.24	15.01.2013	22.01.2013
22		440,90,95,228.80	28.02.2014	07.03.2014
23		150,77,88,055.98	03.09.2014	07.10.2014
24		147,07,18,080.00	25.11.2014	17.12.2014
Total		2539,55,28,665.69		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **2539,55,28,665.69** to the Regional Office of Reserve Bank of India out of which remittances amounting to ₹ **331,82,08,877.98** were reported with delays ranging from 3 days to 5 months 4 days 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.

Sl No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting to AD or RBI
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1	Gerdau Holdings Europa (formerly known as Corporacion Sidenor)	02.04.2008	1,53,13,506	79,11,75,000.00	24.04.2008
2		27.05.2008	4,06,86,494	210,20,75,000.00	15.06.2010
3		30.03.2009	4827297	24,94,26,436.00	28.07.2009
4		23.11.2009	2,86,02,000	28,60,20,000.00	02.02.2010
5		16.04.2010	6,56,28,318	65,62,83,180.00	26.06.2010
6		26.06.2010	3,08,28,470	30,82,84,700.00	19.07.2010
7		11.02.2011	2,24,49,956	22,44,99,560.00	11.03.2011
8		13.06.2011	5,10,14,036	51,01,40,360.00	11.07.2011
9		23.12.2011	2,26,09,515	22,60,95,150.00	05.01.2012
10		24.01.2012	1,58,29,525	15,82,95,250.00	01.02.2012
11		23.02.2012	1,66,49,500	16,64,95,000.00	19.03.2012
12		15.03.2012	2,62,59,507	26,25,95,070.00	04.04.2012
13		24.03.2012	16,79,60,657	167,96,06,570.00	24.04.2012
14		05.05.2012	4,95,97,110	49,59,71,100.00	06.06.2012
15		24.05.2012	15,36,40,323	153,64,03,230.00	06.06.2012
16		19.07.2012	31,56,58,652	315,65,86,520.00	06.08.2012
17		25.10.2012	18,36,09,362	183,60,93,620.00	21.11.2012
18		17.01.2013	7,60,92,169	76,09,21,690.00	13.02.2013
19		15.02.2013	26,00,95,164	260,09,51,640.00	08.03.2013
20		03.06.2014	44,09,09,520	440,90,95,200.00	04.07.2014



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21	Gerdau Holdings	28.10.2014	15,07,78,805	150,77,88,050.00	27.11.2014
22	Europa (formerly known as Corporacion Sidenor)	10.03.2015	14,70,71,808	147,07,18,080.00	30.03.2015
		Total	228,61,11,694	2539,55,20,406.00	

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

The applicant filed form FCGPRs for the of shares amounting to ₹ **2539,55,20,406.00** as indicated above out of which shares allotted for ₹ **987,84,77,486.00** were reported with delays ranging from 1 day to 1 year 11 months 20 days approximately. 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.

d) The company has refunded the share application money to the foreign investor as indicated below:

Sl No	Name of Remitter	Total Amount (INR)	Date of Receipt	Excess share application money	Date of RBI's Approval for refund
1	Gerdau Holdings Europa (formerly	210,20,83,128.00	02.05.2008	8128.00	30.11.2012



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	known as Corporacion Sidenor)				
			Total	8128.00	

The applicant has refunded the un-allotted share application money of ₹ 8,128.00 with delay of 4 years 1 month 1 day approximately. Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.

3. The applicant vide mail dated April 23, 2019 stated that they are foregoing appearing for the personal hearing and requested that the compounding application may be disposed off on the basis of merits in terms of the facts/submission made therein along with the compounding 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



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₹ **331,82,08,877.98** and the delay ranges from 3 days to 5 months 4 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 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 ₹ **987,84,77,486.00** and the period of contravention ranges from 1 day to 1 year 11 months 20 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of share application money ₹ **8128.00** and the delay is 4 year 1 month 1 day approximately.

5. It has been declared in the compounding application dated December 20, 2018 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 December 20, 2018 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



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and I consider that an amount of ₹ 6,42,325/- (**Rupees Six Lakh Forty Two Thousand Three Hundred Twenty Five Only**) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 8 respectively of Schedule 1 to 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 of ₹ 6,42,325/- (**Rupees Six Lakh Forty Two Thousand Three Hundred Twenty Five 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 25th day of April 2019

Sd/-

(Subrata Das)

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