



In the

Reserve Bank of India  
Foreign Exchange Department  
3<sup>rd</sup> Floor  
15, Netaji Subhas Road  
Kolkata – 700 001

Present

**H. Thangzaman**  
**Chief General Manager**

Date: March 18, 2019  
C.A.096/2019

In the matter of

**M/s Deutsche Maschinen India Pvt. Ltd.**  
Palan Industrial Estate, Gagarampur Road, Roypur, Maheshtala  
Kolkata-700 141  
West Bengal  
(Applicant)

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

### **Order**

The applicant had filed a compounding application dated December 17, 2018 (received at Reserve Bank on December 18, 2018) 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 is for delay in submission to the Reserve Bank of both Form ARF after receipt of inflow from a person resident outside India and Form FC-GPR after issue of shares to a person resident outside India beyond the



stipulated 30 days in terms of Paragraph 9(1)(A) and 9(1)(B) respectively 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 May 03, 2000 and as 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. The applicant, M/s Deutsche Maschinen India Pvt. Ltd., was incorporated under Companies Act, 1956, on May 17, 2007 and is in the business of repair and installation of machinery and equipment {NIC-2008: 33}. The company had received the foreign inward remittances towards subscription to equity shares from its foreign investor, as given in Table 1 below:

**Table 1: Details of inflow of foreign inward remittances**

S. No.	Name of Investor	Inflow (INR)	Inflow (USD)	Date of inflow	Date of reporting of inflow to RBI	Delay beyond 30 days (Days)
1	MHHT	2,77,115		24-Apr-07	17-Aug-07	85
2	MHHT	8,19,000		03-Aug-07	29-Aug-07	0
3	MHHT	20,80,350		28-Apr-08	05-May-08	0
4	WSH	33,22,250		28-Apr-08	05-May-08	0
5	MHHT	58,81,795		16-Jul-08	28-Jul-08	0
6	WSH	57,35,910		24-Jul-08	28-Jul-08	0
7	MHHT	16,68,250		06-Apr-09	17-Apr-09	0
8	WSH	16,68,250		06-Apr-09	17-Apr-09	0
9	MHHT	16,28,250		16-Jun-09	24-Jun-09	0
10	WSH	16,34,500		17-Jun-09	24-Jun-09	0
11	MHHT	5,750.		06-Jul-09	10-Jul-09	0
12	WSH	26,65,000		24-Aug-09	04-Sep-09	0
13	MHHT	26,65,000		24-Aug-09	04-Sep-09	0
14	WSH	17,19,250		23-Oct-09	04-Nov-09	0
15	MHHT	17,19,250		23-Oct-09	04-Nov-09	0
16	WSH	9,70,950		18-Jan-10	27-Jan-10	0
17	MHHT	9,70,950		18-Jan-10	27-Jan-10	0
18	WSH	29,51,813		18-Nov-10	29-Nov-11	346
19	MHHT	29,51,813		18-Nov-10	29-Nov-11	346
20	WSH	31,62,500		15-Jun-11	27-Jun-11	0
21	MHHT	31,62,500		15-Jun-11	27-Jun-11	0
22	WSH	25,00,000		16-Oct-12	05-Nov-12	0
23	MHHT	25,00,000		16-Oct-12	05-Nov-12	0
24	MHHT	2,68,036		21-Apr-17	16-May-17	0



S. No.	Name of Investor	Inflow (INR)	Inflow (USD)	Date of inflow	Date of reporting of inflow to RBI	Delay beyond 30 days (Days)
25	HGH	2,65,35,604		21-Apr-17	15-May-17	0
26	MHHT	12,50,364		05-Jul-17	21-Nov-17	109
27	HGH	12,37,86,036		05-Jul-17	21-Nov-17	109

Few of the aforementioned inward remittances have been reported to the Reserve Bank of India with a delay beyond the stipulated period of 30 days with a delay ranging from 85 days to 109 days, leading to contravention of Para 9 (1) (A) of FEMA 20/2000-RB dated May 3, 2000.

3. The company allotted shares in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, within 180 days of the receipt of inflow.

4. The applicant reported the following allotment of shares (in form FC-GPR) to the Bank with a delay beyond the stipulated period of 30 days as detailed in Table 3:

**Table 3: Allotment of shares and reporting of FCGPR**

S. No.	Amount for which shares have been issued (INR)	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	15,18,414.50	18-Oct-17	23-May-18	187
2	15,03,21,641.50	18-Oct-17	23-May-18	187
	<b>20,43,01,068</b>			

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.1369/06.01.002/2018-19 dated March 5, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Mr. Abhijit Roy (Director), appeared for personal hearing on March 18, 2019. The representative of the applicant admitted the contraventions as stated in para 2 and 4 of this Order.



6. It has been declared in the compounding application dated December 17, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration 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/him/her 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. I have given careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened provisions of paragraph 9(1)(A) and 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB. The contravention relates to an amount of INR 27,68,76,456.

7. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances which led to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of Rs. 1,13,958 (Rupees One Lakh Thirteen Thousand Nine Hundred and Fifty Eight only) will meet the end of justice.

8. Accordingly, I compound the admitted contravention viz. Paragraph 2 of Schedule 1 of Notification No. FEMA 20(R) dated November 7, 2017 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount Rs. 1,13,958 (Rupees One Lakh Thirteen Thousand Nine Hundred and Fifty Eight only) which are to be deposited by the applicant with the Reserve Bank of India, Kolkata by a



demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

9. The application is disposed off accordingly.

Dated this Eighteenth day of March, Two Thousand and Nineteen.

Sd/  
(H. Thangzaman)  
Chief General Manager