



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Suman Ray
Chief General Manager

Date: September 10, 2019
C.A.922/2018

In the matter of

M/s. Easternbulk Lime Products Pvt Ltd.
No.85 (Old 42), Dheen Estate Moore street
Parrys
Chennai - 600 001

(Applicant)

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

Order

The applicant has filed a compounding application dated April 30, 2019 (received at Reserve Bank on May 21, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds to Reserve Bank received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR to Reserve Bank on allotment of shares in terms of Paragraph 9(1)A and Paragraph 9(1)B respectively, of



Schedule I 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 3, 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (iii) delay in refund of receipt of consideration in terms of Paragraph 2(3) of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20R/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on September 08, 2014 under the provisions of the Companies Act, 2013 (Registration No. U26960TN2014PTC097250) and is engaged in business of manufacture of other Chemical products. The applicant received foreign inward remittances from M/s. Chememan Public Company Limited, Thailand towards subscription to shares and reported to Reserve Bank.

Sl. No.	Amount of Inward Remittance (₹)	Date of receipt	Reported to RBI on
1	1,91,70,000.00	20.09.2017	21.10.2017

The applicant reported receipt of remittance of ₹1,91,70,000.00 to the Reserve Bank on date indicated above with a delay of one day approximately beyond the stipulated time of 30 days. Whereas, in terms of paragraph 9 (1) A of Schedule I 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.

3. The applicant company allotted shares for the inward remittances received and filed Forms FC-GPR.

Sl. No	No. of shares allotted	Share Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	95850	200	1,91,70,000.00	14.10.2017	16.11.2017



The applicant filed the Form FC-GPR for 95850 shares allotted on the date as indicated above with a delay of three days approximately beyond the stipulated time of 30 days. Whereas in terms of paragraph 9(1)B of Schedule I 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company received two inward remittances of ₹1,00,20,750.00 and ₹1,00,52,790.00 on March 27, 2018 and May 22, 2018 respectively against which shares were allotted for ₹1,00,00,000.00 each on April 18, 2018 and May 23, 2018. The balance amounts of ₹20,750.00 and ₹52,790.00 were refunded as detailed below:

Sl. No.	Date of receipt	Balance amount after allotment (₹)	Date of refund
1	27.03.2018	20,750.00	16.08.2019
2	22.05.2018	52,790.00	16.08.2019

The company refunded the balance receipt of considerations with a delay ranging from one year 11 days to one year two months six days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, if capital instruments are not issued within 60 days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance within fifteen days from the date of completion of 60 days of receipt of consideration.

5. The applicant was advised about the contraventions vide memorandum dated December 18, 2018. The applicant has filed compounding application dated April 30, 2019 wherein it has been declared 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 undated 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. 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. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated September 05, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide email dated September 05, 2019 chose not to appear for the personal hearing scheduled on September 06, 2019. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) Paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittance towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 1,91,70,000.00 with duration of contravention being one day approximately;
- (b) Paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of ₹1,91,70,000.00 with the duration of contravention being three days approximately; and
- (c) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of receipt of consideration, as detailed in paragraph 4 above. The contravention relates to an amount of ₹73,540.00 with the duration of contravention ranging from one year 11 days to one year two months six days approximately.



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8. 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 contraventions are to be compounded and I consider that an amount of **₹35,886/-** (Rupees thirty five thousand eight hundred and eighty six only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, and paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-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 **₹35,886/-** (Rupees thirty five thousand eight hundred and eighty six only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 tenth day of September, 2019.

Sd/-
Suman Ray
Chief General Manager