



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: February 17, 2020
CA No 5008/ 2019

In the matter of

Everest Kanto Cylinder Limited
204, Raheja Centre, Free Press Journal Marg,
214, Nariman Point
Mumbai 400 021.

(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 September 06, 2019 (received in the Reserve Bank on September 12, 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) Delayed repatriation of interest due on loans and (b) Delay in submission of APRs for the years 2007, 2017 and 2018, in violation of Regulation 15(ii) 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 incorporated as Everest Kanto Cylinder Pvt Ltd on June 24, 1978 (CIN: L29200MH1978PLC020434) and its name was subsequently changed to Everest Kanto Cylinder Ltd on July 01, 1989. It is engaged in business of development and production of natural gas cylinders, equipment appliances and tanks, etc.

The applicant company invested USD 33,34,000 on June 01, 2006 towards overseas direct investment (ODI) in an overseas wholly owned subsidiary (WOS) viz., EKC Industries (Tianjin) Co Ltd in China. The applicant made a total loan of USD 59,80,680 to the overseas WOS during the period from 2007-2012. The applicant company failed to receive the amount of interest (USD 38,18,654) for multiple loan remittances due on various dates (from March 2008 to September 2018) from the overseas WOS within the prescribed time period of 60 days, thereby contravening Regulation 15(ii) of Notification No. FEMA 120 /2004-RB. The abovementioned amount of accrued interest was written off by the applicant company, post receipt of approval from RBI on June 21, 2019. Further, the applicant company submitted the annual performance reports (APRs) for the years 2007, 2017 and 2018, with a delay.

The above transactions were ratified and taken on record, subject to compounding.

3. The applicant was given an opportunity for personal hearing (vide letter No. FE.CO.CEFA/3806/15.20.67/2019-20 dated January 23, 2020) for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on January 29, 2020, during which the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter. 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 September 06, 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 15(ii) and Regulation 15(iii) of Notification No.FEMA.120/2004-RB. The amount and period of contravention involved is as follows:

- (i) Regulation 15(ii) – Rs.21, 08, 84,700/- and the period of contravention ranges from six months to eleven years approximately
- (iii) Regulation 15(iii) – three APRs delayed for the years 2007, 2017 and 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.15,60,025/- (Rupees fifteen lakhs sixty thousand and twenty five 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 15(ii) and Regulation 15(iii) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs.15,60,025/- (Rupees fifteen lakhs sixty thousand and twenty five 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 17th day of February, 2020

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