



In the
Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: July 22, 2019
C.A. BGL 403/2019

In the matter of

M/s Suhner India Private Limited
Plot No. 50C2 & 50D
Bommasandra Industrial Area
Bengaluru – 560099
(Applicant)

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

Order

The applicant has filed a compounding application dated March 13, 2019, received at the office of Reserve Bank of India, Bengaluru, on March 25, 2019, and addendum to the application dated July 13, 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 receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A) and 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 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 Suhner India Private Limited, was incorporated on August 31, 1998, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Assistant Registrar of Companies, Karnataka. The activity undertaken by the company is manufacturing of flexible shaft, abrasive power tools and machine tools for drilling, milling and tapping. The applicant had received funds towards share application money from the foreign investors, namely, M/s Otto Suhner AG, Switzerland, M/s Suhner Abrasive Exp AG, Switzerland, and M/s Suhner Manufacturing, USA, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	29-07-1999	4,33,350.00	Not applicable
2	11-10-1999	14,37,500.00	Not applicable
3	27-08-1999	4,24,050.00	Not applicable
4	01-12-1999	1,36,250.00	Not applicable
5	01-12-1999	12,26,250.00	Not applicable
6	13-01-2000	13,89,805.00	Not applicable
7	24-01-2000	13,52,324.00	Not applicable
8	31-01-2000	13,20,839.00	Not applicable
9	08-03-2000	5,17,600.00	Not applicable
10	10-03-2000	5,21,947.00	Not applicable
11	16-03-2000	9,07,601.00	Not applicable
12	13-04-2000	13,11,844.00	Not applicable
13	15-04-2000	70,35,000.00	Not applicable
14	21-12-1999	39,09,600.00	Not applicable
15	06-06-2000	13,35,332.00	21-11-2000
16	30-08-2000	13,11,844.00	21-11-2000
17	25-04-2002	29,75,000.00	05-09-2002
18	13-12-2002	58,11,750.00	17-01-2003
19	10-12-2004	2,05,95,825.00	21-12-2004



20	10-12-2004	85,12,175.00	21-12-2004
21	19-03-2012	10,88,843.14	19-04-2012
22	19-03-2012	81,71,613.33	19-04-2012
23	16-01-2013	77,29,300.00	14-02-2013
24	21-01-2013	1,73,88,300.00	14-02-2013
25	04-03-2014	45,31,150.00	20-03-2014
26	04-03-2014	24,39,850.00	20-03-2014
27	30-10-2014	41,34,650.00	17-11-2014
28	30-10-2014	22,26,350.00	17-11-2014
	Total	11,01,75,942.47	

The applicant company had received the remittances indicated at serial numbers 1 to 14, in the Table – 1 above, from the non-resident investors, in terms of FERA Notification No. 182/98-RB, dated February 10, 1998. The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one day to four months and fifteen days, beyond the stipulated time of 30 days, in respect of the remittances as indicated at serial numbers 15 to 18, 21 and 22, in the Table 1 above. 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 company had allotted shares and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	02-11-1999	229488	22,94,880.00	Not applicable
2	11-07-2000	1962906	1,96,29,060.00	24-07-2000
3	01-11-2000	264715	26,47,150.00	21-11-2000



4	25-07-2002	297505	29,75,050.00	05-09-2002
5	09-01-2003	581165	58,11,650.00	17-01-2003
6	11-12-2004	2910799	2,91,07,990.00	21-12-2004
7	23-12-2011	315336	31,53,360.00	23-01-2012
8	03-05-2012	926045	92,60,450.00	05-02-2013
9	19-02-2013	2511760	2,51,17,600.00	30-10-2013
10	31-03-2014	697100	69,71,000.00	23-05-2014
11	17-11-2014	636100	63,61,000.00	12-12-2014
	Total	11332919	1133,29,190.00	

The company had allotted 229488 shares, indicated at serial number 1, in the Table – 2 above, to the non-resident investor, in terms of FERA Notification No. 182/98-RB, dated February 10, 1998. The applicant filed form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one day to eight months and three days, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial numbers 4, 7, 8, 9 and 10, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA. 20/2000-RB, dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days, from the date of issue of shares to persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 149/22.05.963/2019-20, dated July 10, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representative, Mr. Ashok Chakkappan Kocheril, Director, who appeared for the personal hearing on July 16, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, the representative of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken in disposal of the application.



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 during personal hearing and thereafter.

5. I have given my 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 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 foreign inward remittances, received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of ₹2,06,94,382.47, and the period of delay ranges from one day to four months and fifteen days; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPRs 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 ₹4,74,77,460.00, and the period of delay ranges from one day to eight months and three days.

6. It has been declared in the compounding application dated March 13, 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 been declared in the undertaking, 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.

7. 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 **₹63,330.00 (Rupees Sixty Three Thousand Three Hundred and Thirty only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹63,330.00 (Rupees Sixty Three Thousand Three Hundred and Thirty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, payable at Bengaluru, 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, the Twenty Second day of July 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru