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 24, 2020
CA No 5004/ 2019

In the matter of

Datamatics Global Services Ltd
Knowledge Centre Plot no. 58
Street No. 17, MIDC, Andheri (E)
Mumbai 400093.

(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 August 22, 2019 (received in the Reserve Bank on September 11, 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) Delay in submission of Form ODI for remittances and (b) Delay in submission of annual performance reports (APRs) for the years from 2007 to 2016 in violation of Regulation 6(2)(vi) 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, an Indian Company, was incorporated on November 03, 1987 as Interface Software Resources Pvt Ltd. Subsequently, its name was changed to Datamatics Global Services Ltd. on January 17, 2009 (CIN No. L72200MH1919PLCO45205). The Company is in the business of providing Information Technology, Data Management, Business Process Management and Consulting Services to Indian and overseas clients.

The applicant company had made an overseas direct investment (ODI) in March 2006 to set up a wholly owned subsidiary (WOS) in Germany viz. Datamatics Global Services - GMBH (DGSG). In this connection, the applicant company had made two remittances amounting to EUR 5,85,000 on March 01, 2006 out of which EUR 5,80,000 was towards equity and EUR 5,000 was towards loan. However, the entire remittance of EUR 5,85,000 was declared as equity by the applicant while filing the Form ODI/ODR. The revised Form ODI was submitted with delay and was taken on record on May 17, 2019. The applicant company has subsequently disinvested on November 08, 2017, which has been reported and taken on records.

The applicant company had also delayed in filing its APRs with respect to its WOS for 10 years (from 2007 to 2016).

The concerned Division (OID, FED, CO) has since ratified the transaction and taken the same on record, subject to compounding.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/3805/15.20.67/2019-20 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 31, 2020, during which the applicant submitted that the contraventions were inadvert 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, that the particulars given by the applicant company 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 company 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 6(2)(vi) and Regulation 15(iii) of Notification No.FEMA.120/2004-RB. The amount and period of contravention involved is as follows:
(i) Regulation 6(2)(vi) - Rs 3,15,90,000/- and the period of contravention is from March 01, 2006 to May 17, 2019
(ii) Regulation 15(iii) – delayed APRs for the 10 years (2007-2016)

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.7,72,500/- (Rupees seven lakhs seventy two thousand five hundred 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 6(2)(vi) and Regulation 15(iii) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs.7,72,500/- (Rupees seven lakhs seventy two thousand five hundred 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 24th day of February, 2020

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