



In the

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

Present

Dr. K Balu
Chief General Manager

Date: January 03, 2019
C.A.831/2018

In the matter of

M/s. Xenon Automotive India Pvt Ltd.,
54, Kavignar Bharathi Dasan Road,
Teynampet,
Chennai -600 108

(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 September 25, 2018 (received at Reserve Bank on September 28, 2018) 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 received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares to Reserve Bank and (iii) allotment of shares prior to receipt of consideration in terms of



M/s. Xenon Automotive India Pvt Ltd.–C.A.831/2018

Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 8 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 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 company was incorporated on April 01, 2014 under the provisions of the Companies Act, 1956 (Registration No. U74999TN2014PTC095787) and is engaged in business of maintenance and repair of motor vehicles. The applicant received foreign inward remittances from i) M/s Fairview Enterprises Ltd., China ii) Mr. Glen A McClary, USA iii) Ms. Angela Sue Brown, Singapore iv) Mr. Kiran Chakravarthy Parthasarathy, Singapore v) M/s GFC Global Founders, Germany v) Mr. Martin Mayerchak, USA vi) Mr. Bruce J Robertson, England vii) Ms. Radha Dilip Patel, USA viii) Mr. Ravikiran Srisubramanya Ravulaparathi, Singapore ix) Mr. Badrinath Balabhadra, USA x) Mr. Dibyajyothi Halder, Singapore xi) Ms. Shilpa Sigireddy, USA xi) Mr. Christopher Stephen Brown, USA xii) Mr. Sriresh Arunajadai, USA towards subscription to equity shares and reported to Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	12,60,000.00	05.05.2015	02.06.2015
2	31,90,000.00	08.06.2015	30.06.2015
3	31,82,500.00	09.06.2015	30.06.2015
4	9,00,000.00	24.06.2015	17.04.2017
5	10,09,650.00	06.07.2015	01.08.2015
6	6,35,000.00	06.07.2015	04.09.2015
7	15,87,500.00	06.07.2015	07.10.2015
8	31,73,835.00	13.07.2015	27.08.2015
9	63,50,000.00	17.07.2015	14.10.2015
10	19,08,581.85	27.07.2015	04.08.2015
11	25,40,000.00	29.07.2015	11.08.2015
12	16,58,069.93	14.09.2016	20.04.2017
13	19,89,150.08	14.09.2016	04.04.2017
14	19,89,900.00	19.09.2016	17.08.2017
15	33,17,912.09	23.09.2016	24.04.2017



M/s. Xenon Automotive India Pvt Ltd.–C.A.831/2018

16	33,15,250.00	26.09.2016	24.04.2017
17	5,00,204.92	03.10.2016	04.05.2018
18	16,17,350.00	05.10.2016	24.04.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 14 days to one year eight months 23 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. No.4, 6 to 9 and 12 to 18. 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 equity shares and filed FC-GPRs as indicated below:

Sl. No	No. of shares/ CCDs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	126000	10	12,60,000.00	06.05.2015	19.06.2015
2	10000	10	63,50,000.00	09.06.2015	09.07.2015
3	12003	10	76,21,905.00	05.08.2015	18.09.2015
4	16507	10	1,04,81,945.00	24.08.2015	15.05.2017
5	14348	890	1,27,69,720.00	30.09.2016	28.06.2018
6	1817	890	16,17,130.00	18.10.2016	04.07.2017

The applicant filed the form FC-GPRs as indicated above with delay ranging from 13 days to one year seven months 28 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 1 and 3 to 6. 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 allotted 14348 CCDs on 30.09.2016. But a part of the remittance for this allotment was received as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
---------	-----------------	--------------	-------------------



M/s. Xenon Automotive India Pvt Ltd.–C.A.831/2018

1	03.10.2016	5,00,180.00	30.09.2016
---	------------	-------------	------------

The amount was received with a delay of three days approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, a company issuing the shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by way of inward remittance through normal banking channels or by debit to NRE/FCNR account of the person concerned maintained with an authorized dealer/authorized bank.

5. The applicant has filed a Suo-moto compounding application dated September 25, 2018 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 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 December 26, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on January 02, 2019 during which Shri T Durga Prasad, Practicing Company Secretary and Smt P Revathi represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 to 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take a lenient view in the matter. 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 the personal hearing.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and 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 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 2,70,34,172.02.00 with duration of contravention ranging from 14 days to one year 8 months 23 days approximately;
- (b) Paragraph 9 (1) B of Schedule 1 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. The contravention relates to an amount of ₹ 3,37,50,700.00 with the duration of contravention ranging from 13 days to one year seven months 28 days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to allotment of shares prior to receipt of full consideration. The contravention relates to an amount of ₹5,00,180.00 with the duration of contravention being three days approximately.

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



M/s. Xenon Automotive India Pvt Ltd.–C.A.831/2018

of **₹2,34,086/-** (Rupees Two lakhs thirty-four thousand 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, 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-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 **₹2,34,086/-** (Rupees Two lakhs thirty-four thousand 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 of accordingly.

Dated this Third day of January, 2019.

Sd/-

Dr. K Balu

Chief General Manager