



In the

Reserve Bank of India
Foreign Exchange Department
5th Floor, Amar Building
Sir PM Road
Mumbai – 400001

Present

R. Seetharaman
Deputy General Manager

Date: December 12, 2017
CA NO: 4507/2017
In the matter of

Hittco Tools Limited
“HTC Aspire”, 2nd Floor, 19, Ali Asker Road, Bangalore-560002
(Applicant)

In exercise of powers conferred 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 1, 2017 (received in the Reserve Bank of India on September 5, 2017) for compounding the 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 relate to non-receipt of share certificates for its investment made in Joint Venture (JV), M/s. Hittco Tools (Thailand) Company Limited at Thailand in contravention of the provisions of Regulation 15(i) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 7, 2004, as amended from time to time (hereinafter referred to as Notification No FEMA 120-RB 2004).



2. The relevant facts of the case are follows: The applicant was incorporated as Hittco Tools Limited on January 4, 1995 with CIN NO: L28939KA1995PLC016888. The applicant is engaged in the business of manufacture of cutting tools Viz., HSS drills, taps and carbide tools. The applicant started a Joint Venture (JV) M/s. Hittco Tools (Thailand) Company Limited at Thailand with their partners, M/s. BHP Global Singapore Pte Limited, Singapore. The applicant to hold 51% of shares and the other partner to hold 49% of shares as per their JV agreement. The applicant sent remittances on the following occasions.

| Date | Amount in USD | Amount in INR |
|------------------|---------------|---------------|
| October 25, 2011 | 11500.00 | 570975.00 |
| March 6, 2012 | 4892.72 | 249039.00 |
| April 10, 2012 | 5005.00 | 260761.00 |
| April 27, 2012 | 20071.00 | 1073799.00 |
| Total | 41468.72 | 2154574.00 |

The applicant filed ODI Form I on November 26, 2011 under auto route and UIN BGJAZ20111008 was allotted by Reserve Bank of India vide letter dated December 2, 2011. The applicant not received share certificates for their investment made in the above JV. The other foreign partner had not invested the funds required under the collocation agreement and the applicant invested funds were used for incurring the regular expenses of the JV. The applicant decided to dissolve the JV, applied to the Department of Business Development, Ministry of Commerce, Thailand on September 20, 2012 and registrar has appointed Mr.Sidharth Bhandari as the sole Liquidator. The overseas JV was closed on October 24, 2012. The non- receipt of share certificate was in contravention of the regulation 15(i) of FEMA 120-RB 2004. The applicant file ODI Part IV for the disinvestment with full write-off on September 18, 2016 and the administrative actions were completed on October 27, 2017.

3.1 Regulation 15(i) of the said Notification requires that An Indian Party, which has acquired foreign security shall receive share certificates or any



other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised;

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./4044/15.20.67/2017-18 dated November 7, 2017 for further submission in person and /or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on December 7, 2017. Shri.Krishna Jayakumar, CFO & Company Secretary and Shri. Suresh Morye, Accountant represented the applicant. The application is considered on the basis of the averments made and documents produced in the application.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 15(i), of FEMA 120-RB 2004 as amended from time to time.

(i) The amount and period of contravention: The amount of contravention USD 41468.72 (INR 2154574.00) and period of contravention varied from one day to five months for the remittances made in 4 tranches.

6. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, taking into account the relevant facts and circumstance 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 Rs.60773.00 (Rupees sixty thousand seven hundred and seventy three only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(i) of Notification No FEMA 120-RB 2004of



Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant stated above on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs.60773.00 (Rupees sixty thousand seven hundred and seventy three only) which shall be deposited by the applicant with the Reserve Bank of India, 11th Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the 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 shall apply.

The application is disposed accordingly.

Dated this the twelfth day of December 2017.

Sd/-

(R. Seetharaman)

Deputy General Manager