



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri G. P. Borah
Chief General Manager

Date: December 13, 2017

C.A. No. 710/2017

In the matter of

ITS India Private Limited
Kesar Solitaire, 403, 4th Floor
Plot No. 5, Sector – 19
Palm Beach Road, Sanpada
Navi Mumbai – 400705
Maharashtra, India

(Applicant)

In exercise of the powers conferred under section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

1. The applicant has filed the compounding application dated August 07, 2017 (received at the Reserve Bank of India on August 14, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of the inward remittance (ii) delay in reporting receipt of foreign inward



remittance towards subscription to equity & (iii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India in terms of paragraphs 8, 9(1)(A) & 9(1)(B) respectively, of Schedule 1 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 December 23, 2002, under the Companies Act, 1956 as International Tubular Services (India) Private Limited. The name was changed to ITS India Private Limited on September 11, 2008. Its main activity is (i) To carry on the business of manufacture, repair and upgrading of high quality drilling and other equipment used in oil and gas exploration (ii) To carry on the business of providing and maintaining specialized drilling tubular, tools and equipment for the onshore/offshore oil and gas industries.

3. The applicant received foreign inward remittance from M/s International Tubular Services Ltd., UK; International Tubulars FZE Ltd.; International Tubular Services (ME) LLC, Dubai, UAE towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. No.	Amount (in Rs.)	Date of receipt	Date of reporting
1.	4,57,740	15-07-2003	19-08-2003
2.	18,32,151	29-07-2003	19-08-2003
3.	18,23,481	05-09-2003	10-10-2003
4.	10,37,840	18-09-2003	21-07-2004
5.	10,27,240	19-09-2003	21-07-2004
6.	56,33,750	24-10-2003	25-11-2003
7.	12,65,177	13-11-2003	27-03-2004
8	17,95,234	09-02-2004	21-07-2004
9	2,00,000	11-02-2004	21-07-2004
10	6,74,895	04-03-2004	27-03-2004
11	13,46,806	18-03-2004	21-07-2004
12	10,83,577	12-04-2004	21-07-2004
13	13,28,481	05-05-2004	21-07-2004



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14	18,03,116	27-05-2004	21-07-2004
15	44,87,900	11-06-2004	21-07-2004
16	18,33,731	22-07-2004	21-09-2004
17	9,22,034	30-07-2004	21-09-2004
18	3,18,816	20-09-2004	03-01-2005
19	11,37,633	05-10-2004	03-01-2005
20	8,97,625	01-11-2004	08-02-2006
21	15,16,282	13-01-2005	08-02-2006
22	12,96,363	01-07-2005	08-02-2006
23	6,90,711	18-07-2005	08-02-2006
24	9,56,397	25-08-2005	08-02-2006
25	15,65,296	31-10-2005	08-02-2006
26	28,66,785	17-02-2006	12-10-2006
27	8,86,522	22-02-2006	12-10-2006
28	26,82,482	21-03-2006	12-10-2006
Amount Refunded			
29	9,03,242	22-12-2003	10-06-2004
30	2,00,000	16-02-2004	21-07-2004
31	2,00,000	11-02-2004	21-07-2004
32	1,65,930	11-02-2004	21-07-2004
33	16,07,298	01-09-2004	21-09-2004
34	11,38,254	20-10-2004	08-02-2006
35	4,48,195	11-11-2004	08-02-2006
36	11,16,759	22-11-2004	08-02-2006
37	8,69,949	06-12-2004	08-02-2006
38	8,73,328	17-12-2004	08-02-2006
39	10,83,460	24-01-2005	08-02-2006
40	21,64,920	14-02-2005	08-02-2006
41	15,17,540	24-02-2005	08-02-2006
42	15,18,062	17-03-2005	08-02-2006
43	19,58,279	29-03-2005	08-02-2006
44	10,83,336	04-05-2005	08-02-2006
45	5,60,944	13-07-2005	08-02-2006
46	15,12,843	08-08-2005	08-02-2006
47	10,88,927	09-09-2005	08-02-2006
48	9,10,007	09-11-2005	08-02-2006
Total	6,42,89,338		

The applicant reported receipt of remittances to the Reserve Bank of India on dates indicated above and with a delay ranging from 23 days to 1 year 2 months 20 days approximately, beyond the stipulated time of 30 days in respect of remittances



recorded at serial nos. 4, 5, 7 to 9, 11 to 14, 16 to 32 and 34 to 48 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule 1 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No	No. of Shares	FV (Rs.)	Premium (Rs.)	Amount Received (in Rs.)	Date of allotment	Date of reporting
1	45000	10	-	4,50,000	28-11-2003	17-03-2004
2	295000	10	50	1,77,00,000	24-04-2007	13-02-2008
3	450000	10	45	2,47,50,000	24-04-2007	13-02-2008
4	13080326	10	4	18,31,24,564	20-04-2016	30-08-2016
Total	13870326			22,60,24,564		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 2 months 19 days to 8 months 21 days approximately, beyond the prescribed limit in respect of allotment indicated at Sr. No. 1 to 4 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 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.

5. In respect of remittance amounting to Rs.6,38,31,598/- (Rupees Six Crore Thirty Eight Lakh Thirty One Thousand Five Hundred Ninety Eight Only), as detailed in Sr. No. 2 to 48 in para 3 above, the company has issued shares and applied for refund of excess funds beyond prescribed limit of 180 days with a delay ranging from 7 months 5 days to 3 years 7 month 17 days approximately. The Reserve Bank of India accorded approval for refund of share application money amounting to Rs.2,09,21,273/- (Rupees Two Crore Nine Lakh Twenty One Thousand Two Hundred Seventy Three only) vide, letter dated, February 9, 2017, and



March 7, 2017. The transaction has been completed on March 21, 2017. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of security by A person resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Government of India.

6. The applicant was given an opportunity for personal hearing vide e-mail dated November 14, 2017, for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on November 16, 2017, during which Shri Prabhakar Shankar, Country Manager- India, Ms. Kajal Gala, Senior Consultant- Taxation & Hetal Chotelia, Finance Controller represented the applicant in the cabin of Shri G. P. Borah, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing 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.

7. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:



(a) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application not refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.6,38,31,598/- (Rupees Six Crore Thirty Eight Lakhs Thirty One Thousand Five Hundred Ninety Eight Only) and the duration ranging from 7 months 5 days to 3 years 7 months 17 days, approximately.

(b) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed in paragraph 3 above. The contravention relates to an amount of Rs.4,77,72,123/- (Rupees Four Crore Seventy Seven Lakhs Seventy Two Thousand One Hundred Twenty Three only) and the duration ranging from 23 days to 1 year 2 months 20 days, approximately.

(c) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.22,60,24,564/- (Rupees Twenty Two Crore Sixty Lakhs Twenty Four Thousand Five Hundred Sixty Four only) with a delay ranging from 2 months 19 days to 8 months 21 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 of Rs. 5,25,523/- (Rupees Five Lakh Twenty Five Thousand Five Hundred Twenty Three only) will meet the ends of justice.



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9. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 8, 9(1)(A) and 9(1)(B) 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 Rs. 5,25,523/- (Rupees Five Lakh Twenty Five Thousand Five Hundred Twenty Three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.

10. The above order is passed only in respect of contraventions of paragraph 8, 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: December 13, 2017

Compounding Authority

Sd/-

(G. P. Borah)

Chief General Manager