



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Fort, Mumbai - 400 001

Present

**Dr. Tuli Roy**  
**General Manager**

Date: January 31, 2018  
C.A. 4548 / 2017

In the matter of

**Diabu Diamond Tools (India) Pvt Ltd**  
**131/132, 7<sup>th</sup> Floor, Devatha Plaza, Residency Road**  
**Bengaluru-560025**

**(Applicant)**

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

**Order**

The applicant has filed the compounding application dated October 20, 2017 (received in Reserve Bank of India on October 25, 2017) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is for issuance of shares to the foreign entity without obtaining prior approval RBI which is in contravention of Regulation 4 of FEMA 20.

2. The facts of the case are as under: The applicant company had allotted 42,126 equity shares on 1.11.2013 to Diabu Germany (parent company) in lieu of supply of raw material for Rs 89,21,042 and bank charges of Rs 5,57,389, totaling Rs 94,78,431. The allotment of 42,126 shares were entered into the books of the company without the approval of RBI



and hence is a contravention under Regulation 4 of Notification No. FEMA 20/2000-RB dated 3.5.2000. The transaction has been regularized on October 20, 2017.

4. In terms of Regulation 4 of FEMA 20.... ” **Restriction on an Indian entity to issue security to a person resident outside India or to record a transfer of security from or to such a person in its books :-**

Save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person:-

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary. ”

5. The applicant was given an opportunity for personal hearing vide our letter No. FE.CO.CEFA/5896/15.20.67/2017-18 dated January 17, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant requested for grant of leave of absence.

6. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened Regulation 4 of FEMA 20 by allotting shares worth Rs 94,78,431 on 1.11.2013.

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. However, after considering the entire facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and I consider that payment of an amount of Rs.111,610/- (Rupees One hundred and eleven thousand, six hundred and ten only only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound the admitted contravention namely, the contraventions for not obtaining prior approval of RBI as specified at Regulation 4 of FEMA 20 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.111,610/- (Rupees One hundred and eleven thousand, six hundred and ten only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> 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 of accordingly.

Dated the thirty first day of January 2018.

Sd/-

**(Dr. Tuli Roy)**  
**General Manager**