



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: January 31, 2018

C.A. No. 717/2017

In the matter of

Emirates Lube India Private Limited
315 'B' Wing, Shree Nand-Dham
Plot No. 59, Sector 11
CBD Belapur
Navi Mumbai- 400 614

(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 September 7, 2017 (received at the Reserve Bank of India on September 8, 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 June 02, 2006 under the Companies Act, 1956. Its main activity is to carry on the business in India or elsewhere of manufacturing, producing, acquiring, buying, importing, selling, exporting, leasing, treating, processing, developing, retreating, refining, storing, distributing, piping and/or transporting and otherwise dealing in all kinds and classes of automotive, industrial and marine lubricants, lubricating compositions, lubricating devices, petroleum products, compositions, chemicals, chemical products and compositions and all the articles, materials and parts entering into any of the said products by whatever name called and described.

3. The applicant received foreign inward remittance from Emirates Lube Oil Company Limited, United Arab Emirates towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

No.	Amount in Rs.	Date of receipt	Date of reporting
1	1,00,000	29-07-2006	16-03-2016
2	1,00,000	29-07-2006	16-03-2016
3	8,00,000	29-07-2006	02-09-2008
4	3,00,000	23-09-2006	02-09-2008
5	66,00,000	16-11-2006	02-09-2008
6	35,00,000	18-05-2007	02-09-2008
7	50,00,000	16-07-2008	02-09-2008
8	33,00,000	04-03-2009	12-06-2013
9	34,00,000	14-05-2009	20-12-2010
10	33,00,000	11-09-2009	20-12-2010
11	40,00,000	08-07-2011	30-07-2013
12	13,53,179	28-10-2011	30-07-2013
13	20,29,769	28-10-2011	30-07-2013
14	40,69,351	20-03-2012	24-05-2013



15	42,92,052	10-10-2012	15-02-2013
16	48,46,526	10-04-2014	08-05-2014
17	50,00,000	28-04-2014	15-05-2014
18	25,00,000	26-05-2015	29-07-2015
Total	5,44,90,877		

The applicant reported receipt of remittances to the Reserve Bank of India on dates indicated above with a delay ranging from 18 days to 9 years 6 months 17 days approximately, in respect of remittance recorded at serial no. 1 to 15 and 18 above, beyond the stipulated time of 30 days. 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	Premium	Amount in Rs.	Date of allotment	Date of reporting
1	10,000	10	0	1,00,000	29-07-2006	16-03-2016
2	10,000	10	0	1,00,000	29-07-2006	16-03-2016
3	80,000	10	130	1,12,00,000	17-02-2008	02-09-2008
4	75,000	10	190	1,50,00,000	30-12-2009	21-01-2010
5	25,000	10	285	73,75,000	06-01-2012	08-08-2013
6	15,950	10	245	40,67,250	18-08-2012	02-07-2013
7	11,050	10	378	42,87,400	09-03-2013	09-04-2013
8	6,56,435	10	5	98,46,525	07-06-2014	07-07-2014
9	1,66,667	10	5	25,00,000	27-06-2015	11-10-2015
			Total	5,44,76,175		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 2 months 15 days to 9 years 6 months 17 days approximately, beyond the prescribed limit in respect of allotment indicated at Sr. No. 1 to 3, 5, 6 and 9 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 remittances amounting to Rs.1,17,00,000/- (Rupees One Crore Seventeen Lakh only), at serial nos. 7 to 9 in para 3 above, the company allotted shares after 180 days of receipt of investment with a delay ranging from 1 month 19 days to 11 months 14 days approximately. 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 January 15, 2018 for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on January 18, 2018, during which Shri Arvind Sinha, CEO and Sasikumar R Nair, Dy. Manager 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.1,17,00,000/- (Rupees One Crore Seventeen Lakh only) with a delay ranging from 1 month 19 days to 11 months 14 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.4,46,44,351/- (Rupees Four Crore Forty Six Lakh Forty Four Thousand Three Hundred Fifty One only) and with a delay ranging from 18 days to 9 years 6 months 17 days approximately, 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 after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.2,53,42,250/- (Rupees Two Crores Fifty Three Lakh Forty Two Thousand Two Hundred Fifty Only) with a delay ranging from 2 months 15 days to 9 years 6 months 17 days approximately.

8. It has been declared in the compounding application dated September 7, 2017 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated January 18, 2018 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. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. 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.

9. 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.2,53,500/- (Rupees Two Lakh Fifty Three Thousand Five Hundred only) will meet the ends of justice.

10. 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.2,53,500/- (Rupees Two Lakh Fifty Three Thousand Five Hundred 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.



FED, MRO
Emirates Lube India Private Limited
MUM 717

11. 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: January 31, 2018.

Compounding Authority

Sd/-

(G. P. Borah)
Chief General Manager