



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Fort, Mumbai - 400 001

Present

Shekhar Bhatnagar
Chief General Manager

Date: March 13, 2018
C.A. 4526/2017

In the matter of
PMP Auto Components Private Limited
Peninsula Spenta, Mathuradas Mills Compound, Senapati Bapat Marg
Lower Parel, Mumbai 400013, Maharashtra

(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 application dated September 22, 2017 (received in the Reserve Bank of India on October 03, 2017) and addendum dated December 04, 2017 (received in the Reserve Bank on December 05, 2017) 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 relate to (i) extending loan to the overseas step down subsidiary without equity participation and without prior approval from the Reserve Bank of India (RBI) and; (ii) delay in submission of Annual Performance Reports (APRs) in respect of the overseas entity in contravention of the provisions of regulations 6(4) and 15(iii) respectively of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004, notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).



2. The relevant facts of the case are as follows: PMP Components Private Limited (PMP), a resident Indian company, was incorporated on May 01, 1996 (CIN: U34300MH1996PTC099236) under the Companies Act, 1956 and its name was subsequently changed to PMP Auto Components Private Limited (PMP) on November 13, 2009. It is engaged in the business of manufacturing and marketing auto electrical components for Original Equipment Manufacturers (OEMs). PMP made strategic entry in wiper system business by acquiring Bakony Ablaktorlo-rendszerekKft, Hungary in June 2007 (hereinafter referred as 'PMP Bakony'). In October 2008, the applicant set up a step down subsidiary (SDS) in Czech Republic through PMP Bakony viz PMP Pal International SRO (hereinafter referred as 'PMP Pal'). On May 26, 2010, the applicant remitted EURO 750,000 (Rs.433,64,670/-) towards loans to PMP Pal i.e. SDS in which the applicant had no direct equity participation without requisite approval from RBI. This was in contravention of regulation 6(4) of FEMA 120/2004-RB. On becoming aware of the contravention the loan was called back by the applicant and the amount was repatriated on July 19, 2010.

The applicant also delayed in filing the Annual Performance Reports in form APR with the RBI in respect of the overseas entity for six years during the period 2009-2016 beyond the prescribed period in contravention of regulation 15(iii) of Notification No. FEMA 120/2004-RB dated July 7, 2004.

The applicant was advised of the contraventions committed vide letter FE.CO.DID.No.1392/19.16.364/2017-18 dated August 04, 2017.

3. PMP, during the course of its operations committed the following contraventions of FEMA provisions as laid down under Notification No. FEMA 120/2004:-

3.1 In terms of regulation 6(4)(i) of FEMA 120/2004, *'An Indian Party may extend a loan or a guarantee to or on behalf of the Joint Venture / Wholly Owned Subsidiary abroad, within the permissible financial commitment, provided that the Indian Party has made investment by way of contribution to the equity capital of the*



Joint Venture. Further, in terms of regulation 6(4)(iv) of FEMA 120/2004, '*With prior approval of the Reserve Bank, an Indian party may undertake financial commitment without equity contribution in JV / WOS provided it is as per the business requirement of the Indian party and also as per the legal requirement of the host country.*'

Whereas the applicant extended loan to the overseas step down subsidiary without equity participation and without prior approval from RBI thereby contravening the said FEMA provisions. The amount of contravention was EURO 750,000 (Rs.433,64,670/-) and the period of contravention was around seven years four months approximately as the compounding application was filed on September 22, 2017.

3.2 In terms of regulation 15(iii) of FEMA 120/2004 an applicant is required to submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI, as prescribed by the Reserve Bank from time to time, in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time. The APR, so required to be submitted, has to be based on the audited annual accounts of the JV / WOS for the preceding year, unless specifically exempted by the Reserve Bank.

Whereas the APRs for six years during the period 2009-2016 were submitted to the RBI with delay beyond the prescribed period in contravention of the said FEMA regulation.

4. The applicant was given an opportunity for personal hearing vide our letter No. FE.CO.CEFA No.6986/15.20.67/2017-18 dated February 22, 2018 for further submission in person and/or producing documents, if any, in support of the application. Shri Arindam Maheshwari, Assistant General Manager and Shri Sanjeev Singh Sengar, Assistant General Manager from the Ashok Piramal Group along with Shri Dhrumil M. Shah, company secretary represented the applicant during the personal hearing held on March 06, 2018. The representatives of the applicant submitted that the contraventions on their part were unintentional and a lenient view may be taken. 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.

5. 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 FEMA provisions issued in terms of regulations 6(4) and 15(iii) of Notification No. FEMA 120/2004-RB dated July 7, 2004 as detailed in paragraphs 2 and 3 above.

6. It has been declared in the compounding application dated September 22, 2017 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 undertaking dated March 08, 2018 furnished subsequently by the applicant 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 thereafter as required in terms of the said undertaking. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made/undertaking furnished 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/undertakings are subsequently discovered to be false and/or incorrect.

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 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 contravention is to be compounded and I consider that payment of an amount of Rs.4,35,235/- (Rupees four lakhs thirty five thousand two hundred and thirty five only) will meet the ends of justice.



8. Accordingly, I compound the admitted contraventions namely, the contravention of the regulations 6(4) and 15(iii) of Notification No. FEMA 120/2004-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.4,35,235/- (Rupees four lakhs thirty five thousand two hundred and thirty five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 accordingly.

Dated this the thirteenth day of March, 2018.

Sd/-

(Shekhar Bhatnagar)
Chief General Manager