



In the  
Reserve Bank of India  
Foreign Exchange Department  
Ahmedabad-380009

Present  
Jayant Kumar Dash  
Chief General Manager (The Regional Director)

March 29, 2018  
CEFA.CO.ID.9566 / C.A.No. AHM - 95 / 2017-18

Matter

M/s Himile Molds (India) Pvt. Ltd.  
(CIN: U35116GJ2016PTC085820)  
Shed No. 141/1, Paiki, Ramangmdi, GIDC, POR – 391243, Vadodara  
Gujarat

**(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 there under, I pass the following order:

**Order**

The applicant has filed compounding application dated January 4, 2018 (received at Reserve Bank of India on January 5, 2018) 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 are (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of



paragraphs 9(1)(A) and 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 3<sup>rd</sup> May 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 January 25, 2016 under the provisions of the Companies Act, 2013 (CIN: U35116GJ2016PTC085820). The company is engaged in manufacture, repairs and modification of automotive tyre moulds. The applicant company has received total eight inflows amounting to ₹17,08,79,561/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

**3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected: (Table -1)**

Sr. No.	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	Himile Mechanical Science and Technology (Shandong) Co. Ltd.	10-02-2016	6079745	16-02-2016	No delay
2	-- do --	21-03-2016	6613478	12-04-2016	No delay
3	-- do --	05-04-2016	22940992	14-04-2016	No delay
4	-- do --	03-06-2016	13258475	30-06-2016	No delay
5	-- do --	26-04-2017	38349762	18-05-2017	No delay
	<b>Sub Total A</b>		<b>87242452</b>		
6	Himile Mechanical Science and Technology (Shandong) Co. Ltd.	24-02-2016	10168440	13-06-2016	<b>80 days</b>
7	-- do --	02-09-2016	19831016	27-10-2016	<b>25 days</b>
8	-- do --	08-02-2017	53637653	02-05-2017	<b>53 days</b>
	<b>Sub Total B</b>		<b>83637109</b>		
	<b>Grand Total (A+B)</b>		<b>170879561</b>		

\* The date for calculation of delay under 9(1) (A) taken as date of inflow reporting by Company to AD.



4. The applicant reported the receipt of eight inward remittances, amounting to ₹17,08,79,561/- to the Ahmedabad Regional Office of the Reserve Bank of India. Out of eight inflows three inflows amounting to ₹8,36,37,109/- were reported with a delay ranging from 25 to 80 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. The applicant allotted equity shares and filed FC-GPRs as stated below:

**Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)**

Sr. No.	Name of the Foreign Investor	No of shares issued	Amount of shares (₹)	Date of issue of shares	Date of submission of FC-GPR to RBI *	Days delay excluding prescribed time of 30 days
1	Himile Mechanical Science and Technology (Shandong) Co. Ltd.	5906113	59061130	05-08-2016	17-02-2017	166 days
2	-- do --	1983101	19831010	11-11-2016	09-06-2017	180 days
3	-- do --	5363766	53637660	04-03-2017	10-08-2017	129 days
4	-- do --	3834976	38349760	25-05-2017	10-08-2017	47 days
	<b>Total</b>	<b>17087956</b>	<b>170879560**</b>			

\* For calculation of days of delay under 9(1)(B) date of reporting to AD bank is taken as reporting to RBI.

\*\* Excess amount of ₹1/- has been ignored.

6. As indicated in the table above, the applicant has filed four form FC-GPRs amounting to ₹17,08,79,560/-. All the four form FC-GPRs amounting to ₹17,08,79,560/- were filed with a delay ranging from 47 to 180 days beyond the



prescribed timeline of 30 days. 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 the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1221 /06.04.15 (N) CEFA /2017-18 dated March 9, 2018 for further submission in person and /or producing documents, if any, in support of the application. Shri Amit Joshi, Director, Shri Yash N. Bhatt, Chartered Accountant (M/s Maloo Bhatt & Co., CA) and Ms. Poorvee Patel, Company Secretary represented the applicant for the personal hearing on March 28, 2018. They admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

8. The representative 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.

9. It has been declared in the compounding application (addendum) dated February 13, 2018 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 declaration 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.

10. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

**A) Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000:** Due to delay in reporting of receipt of foreign inward remittances towards subscription of shares as detailed in paragraph 4 above. The amount of contravention involved is ₹8,36,37,109/- and the delay is for approximately 25 to 80 days.

**B) Paragraph 9 (1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000:** Due to delay in submission of form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹17,08,79,560/- and the delay is for approximately 47 to 180 days .

11. 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 therefore,



I consider that amount of penalty of ₹1,24,500/- (Rupees One lakh twenty four thousand five hundred only) will meet the ends of justice.

12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount ₹1,24,500/- (Rupees One lakh twenty four thousand five hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 29<sup>th</sup> day of March, 2018.

Sd/-

(Jayant Kumar Dash)

Chief General Manager (Regional Director)-