



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 J. K. Pandey
Chief General Manager

Date: April 16, 2018

C.A. No. 730/2017

In the matter of

JBM MA Automotive Private Limited
Plot No. C1/2, MIDC Chakan
Tal- Khed
Pune- 410501

(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 suo-moto compounding application dated November 30, 2017 (received at the Reserve Bank of India on December 11, 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 is 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 in terms of paragraphs 8, 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 originally incorporated on December 12, 2007 under the Companies Act, 1956 as JBM Magnetto Automotive Private Limited. The name of the company was changed to JBM MA Automotive Private Limited on June 17, 2008. Its main activities are

1. To carry on business of manufacturing and selling of pressed welded parts or sub system of four wheeler OEMs including skin panels, body and underbody.
2. To develop and commercialize technologies in the field of pressed and/or welded parts or sub systems of four wheeler.
3. To manufacture, produce, process, design, fabricate, assembly, buy, sell, trade, import, export and deal in products or products, commodities, raw material, blanks, hardware, stores, tools, dies, jigs, fixtures, moulds, gauges, plants and machineries used in the manufacturing of items stated above whether in India or abroad and to offer technical consultancies services and training to manufacture commodities, machinery or equipments of the type manufactured by the company.
4. To carry on all or any of the aforesaid activities directly or indirectly or through the joint venture company promoted for the purpose.

3. The applicant received inward remittances amounting to Rs.30,44,96,000/- (Rupees Thirty Crore Forty Four Lakh Ninety Six Thousand only), and allotted equity shares as detailed below,

Sr No	Amount in INR	Date of remittance	No of shares	Face Value in INR	Date of allotment
1	10,41,12,000	28/01/2008	1800000	10.00	16/12/2008
2	7,58,88,000	13/03/2008			
3	4,93,52,000	13/03/2008	1249600	10.00	25/07/2009
4	7,51,44,000	11/04/2008			
Total	30,44,96,000				

The company allotted shares after 180 days of receipt of investment with a delay ranging from 3 months 6 days to 10 months 13 days approximately. Incidentally, the



applicant had approached Reserve Bank of India, Delhi Regional Office directly vide their letters dated June 2, 2008 and October 10, 2008, for specific approval for extension of issuance of Equity shares for 11 months for remittances listed at serial No. 1 to 4 above. But as the application was not routed through their Authorised Dealer Bank, it is construed that applicant never approached Reserve Bank for extension and the instructions as laid out in the A.P. Dir series circular No. 20 dated December 14, 2007 read with paragraph 8 of Schedule 1 to FEMA 20/2000-RB were not adhered to.

4. The applicant was given an opportunity for personal hearing vide e-mail dated April 4, 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 April 6, 2018, during which Shri Vikas Singhal, Company Secretary and Shri Digajmaan G Mishra, Advocate represented the applicant in the cabin of Shri J. K. Pandey, 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 representative(s) 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.

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 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.30,44,96,000/- (Rupees Thirty Crore Forty Four Lakh Ninety Six Thousand only) with a delay ranging from 3 months 6 days to 10 months 13 days approximately.

6. It has been declared in the compounding application dated November 30, 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 April 11, 2018, 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.

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 contraventions are to be compounded and I consider that an amount of Rs.11,79,360/- (Rupees Eleven Lakh Seventy Nine Thousand Three Hundred Sixty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 8 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.11,79,360/- (Rupees Eleven Lakh Seventy Nine Thousand Three Hundred Sixty only) which shall be deposited by the applicant with the Reserve Bank of India,



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JBM MA Automotive Private Limited
MUM 730

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.

9. The above order is passed only in respect of contraventions of paragraph 8 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: April 16, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)
Chief General Manager