



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

P Ramesh
Assistant General Manager

Date: April 11, 2018
C.A.773/2018

In the matter of

M/s. Green Coke and Ferro Alloys Pvt Ltd.,
F-1, 1st Floor, 87/29,
South Mada Street,
Thiruvanmiyur,
Chennai- 600041

(Applicant)

In exercise of the powers 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

The applicant has filed a compounding application dated March 21, 2018 (received at Reserve Bank on March 22, 2018) for compounding of contraventions 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 delay in refund of inward



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remittance received towards subscription to shares in terms of Paragraph 8 of Schedule I 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 then applicable (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 July 17, 2007 under the provisions of the Companies Act, 1956 (Registration No. U13209TN2007PTC064248) and is engaged in other business services. The applicant received a foreign inward remittance amounting to ₹ 8,00,000/- from Mr. Herald Anthony Gomez, UAE on 02.05.2011 towards subscription to equity shares and reported the same to the Reserve Bank within the prescribed period.

3. The company failed to allot shares against the inward remittance. The company refunded part of the remittance amounting to ₹ 6,50,000/- to a local account and sought our approval for refund of the balance amount of ₹ 1,50,000/-. The company was advised to unwind the first refund transaction and then approach Reserve Bank for approval of refund of the total amount. However, the company refunded ₹ 8,00,000/- to the overseas investor as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	02.05.2011	8,00,000.00	12.03.2018

The company refunded the amount as indicated above with delay of six years four months 10 days approximately beyond the stipulated time of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007, the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

4. The applicant vide letter dated March 23, 2018 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted



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the contraventions as stated in para 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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. It has been declared in the compounding application dated March 21, 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 dated March 21, 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. 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.

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

- (a) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of inward remittance received towards subscription to shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 8,00,000/- with the duration of contravention being six years four months 10 days approximately.

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



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the amount for which the contraventions are to be compounded and I consider that an amount

of ₹ 63,000/- (Rupees sixty three thousand only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention 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 ₹ 63,000/- (Rupees sixty three thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 this Eleventh day of April, 2018.

Sd/-

P Ramesh
Assistant General Manager