



In the

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

Present

**Dr. K Balu**  
**Chief General Manager**

Date : April 04, 2018  
**C.A.771/2018**

In the matter of

**M/s. Yong San Automotive India Pvt Ltd.,**  
No.99, Papparampakkam Village,  
Post Thiruvallur Taluk,  
Thiruvallur-602 025

**(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 February 28, 2018 (received at Reserve Bank on March 08, 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 allotment of shares to the non-resident investors in terms of Paragraph 8 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside



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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 December 08, 2006 under the provisions of the Companies Act, 1956 (Registration No. U74210TN2006PTC061681) and is engaged in business of manufacture of other special purpose non-electrical machinery/equipment. The applicant received six foreign inward remittances amounting to ₹ 27,46,07,268.71 from M/s Yong San Co. Ltd., South Korea between 03.03.2007 and 16.04.2014 towards subscription to equity shares and reported the same to the Reserve Bank. Against the six remittances, the company allotted shares amounting to ₹ 27,46,07,260.00 on three occasions between 13.09.2007 and 13.05.2014 and filed the relevant FC-GPRs with Reserve Bank.

3. Against four remittances received between 10.08.2007 and 05.09.2007 the company allotted 9399832 shares of ₹ 10/- each as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	10.08.2007	1,00,26,139.50	24.06.2008
2	21.08.2007	7,26,00,164.23	24.06.2008
3	30.08.2007	7,17,729.13	24.06.2008
4	05.09.2007	1,06,54,287.14	24.06.2008

The company allotted shares as indicated above with delay ranging from three months 19 days to four months 14 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 was advised about the contraventions vide memorandum dated January 31, 2018. The applicant has filed a compounding application dated



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February 28, 2018 wherein it has been declared 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 February 28, 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 28, 2018 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on April 03, 2018 during which Shri Mariselvam R, Manager-Finance and Smt Uma Vaidyalingam, Chartered Accountant represented the applicant. The authorized representatives of the applicant admitted the contravention as stated in para 3 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested Reserve Bank to take a lenient view in the matter. 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 the personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. 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 allotment of shares with prior approval of Reserve Bank. The contravention



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relates to an amount of ₹ 9,39,98,320/- with the duration of contravention ranging from three months 19 days to four months 14 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 the amount for which the contraventions are to be compounded and I consider that an amount

of ₹ **3,89,990/-** (Rupees three lakh eighty nine thousand nine hundred and ninety 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 ₹ **3,89,990/-** (Rupees three lakh eighty nine thousand nine hundred and ninety 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 Fourth day of April, 2018.

Sd/-

**Dr. K Balu**  
**Chief General Manager**