



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 : August 29, 2018
C.A.805/2017

In the matter of

M/s. Daimler India Commercial Vehicles Private Ltd
SIPCOT Industrial Growth Centre,
Oragadam, Mathur Post,
Sriperumbudur Taluk,
Kancheepuram District – 602 105

(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 July 4, 2018 (received at Reserve Bank on July 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 in reporting of inflow of funds received from a person resident outside India for allotment of shares, and (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank, in terms of Regulation 13.1(1) and Regulation 13.1(2) of Notification No. FEMA 20(



R)/2017-RB dated November 07, 2017 & Paragraph 9 (1) B 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.

2. The relevant facts of the case are as follows: The applicant company was incorporated on December 10, 2007 under the provisions of the Companies Act, 1956 (Registration No. U34200TN2007PTC072876) and is engaged in business of manufacture and sale of commercial vehicles. The applicant has been earlier compounded for contravention of Regulation 3 of FEMA 20 vide compounding order CA. No. 1531/2011 dated April 26, 2011. The applicant received foreign inward remittances from Daimler AG, Germany towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	76,26,00,000	17.04.2008	07.05.2008
2	78,47,98,692	16.12.2008	16.01.2009
3	1,325	17.12.2008	16.01.2009
4	136,21,21,794	30.07.2009	28.08.2009
5	156,53,25,000	10.11.2009	30.11.2009
6	93,80,62,500	19.02.2010	25.02.2010
7	84,42,00,000	18.05.2010	08.06.2010
8	122,00,22,000	04.08.2010	31.08.2010
9	124,27,02,000	14.10.2010	08.11.2010
10	92,71,15,008	24.01.2011	18.02.2011
11	62,19,00,000	28.02.2011	10.03.2011
12	157,42,50,000	05.04.2011	30.04.2011
13	158,62,50,000	07.07.2011	02.08.2011
14	162,26,27,813	04.10.2011	02.11.2011
15	169,56,95,000	05.01.2012	03.02.2012
16	170,20,75,000	03.04.2012	27.04.2012
17	172,53,75,000	05.07.2012	23.07.2012
18	169,14,85,000	04.10.2012	19.10.2012
19	180,27,50,000	04.01.2013	24.01.2013
20	179,77,17,500	25.02.2013	15.03.2013
21	194,28,07,500	18.07.2013	02.08.2013
22	210,20,00,000	05.11.2013	28.11.2013
23	212,47,70,000	28.02.2014	19.03.2014



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24	212,35,35,000	07.03.2014	18.03.2014
25	254,34,96,000	12.03.2014	02.04.2014
26	254,70,69,000	19.03.2014	11.04.2014
27	178,71,25,000	22.01.2015	28.01.2015
28	178,87,20,000	27.01.2015	13.02.2015
29	173,66,75,000	29.01.2015	17.02.2015
30	174,28,20,000	02.02.2015	23.02.2015
31	174,57,75,000	05.02.2015	23.02.2015
32	175,58,00,000	09.02.2015	23.02.2015
33	210,34,08,000	12.02.2015	23.02.2015
34	219,95,46,100	21.02.2015	10.03.2015
35	186,55,00,000	22.01.2016	17.02.2016
36	185,18,43,300	25.01.2016	17.02.2016
37	183,62,92,500	27.01.2016	19.02.2016
38	206,50,06,440	30.01.2016	19.02.2016
39	225,52,68,000	14.09.2016	04.10.2016
40	224,98,53,000	16.09.2016	04.10.2016
41	225,25,32,000	20.09.2016	04.10.2016
42	224,89,23,000	22.09.2016	04.10.2016
43	223,93,26,000	26.09.2016	04.10.2016
44	180,43,67,500	21.11.2016	14.12.2016
45	181,74,77,500	18.11.2016	09.12.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above within the prescribed period of 30 days in terms of paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB.

2a. Subsequent to Notification No. FEMA 20 (R)/2017-RB, the company received foreign inward remittances and reported the same to Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	377,96,80,000	11.12.2017	17.01.2018
2	379,50,40,000	13.12.2017	17.01.2018
3	379,71,25,000	14.12.2017	17.01.2018
4	378,10,75,000	15.12.2017	17.01.2018
5	377,36,20,000	20.12.2017	09.01.2018

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from three days to seven days approximately beyond the prescribed period of 30 days in respect of remittances at Sl. Nos.1 to 4. Whereas, in



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terms of Regulation 13.1(1) of Notification No. FEMA 20(R)/2017-RB, an Indian company which has received amount of consideration for issue of capital instruments and where such issue is reckoned as Foreign Direct Investment for the purpose of these regulations, shall report such receipt (including each upfront/ call payment) in ARF to the Regional Office concerned of the Reserve Bank, not later than 30 days from the date of receipt.

3. The company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	7,62,60,000	10	76,26,00,000	17.04.2008	12.05.2008
2	7,84,80,000	10	78,48,00,000	04.06.2009	26.06.2009
3	13,62,12,179	10	136,21,21,790	15.09.2009	09.10.2009
4	15,65,32,500	10	156,53,25,000	10.12.2009	24.12.2009
5	9,38,06,250	10	93,80,62,500	17.03.2010	09.04.2010
6	20,64,22,200	10	206,42,22,000	13.09.2010	24.09.2010
7	12,42,70,200	10	124,27,02,000	22.11.2010	16.12.2010
8	9,27,11,500	10	92,71,15,000	18.02.2011	09.03.2011
9	21,96,15,000	10	219,61,50,000	01.06.2011	17.06.2011
10	15,86,25,000	10	158,62,50,000	21.09.2011	20.10.2011
11	16,22,62,781	10	162,26,27,810	12.12.2011	11.01.2012
12	16,95,69,500	10	169,56,95,000	13.02.2012	01.03.2012
13	17,02,07,500	10	170,20,75,000	19.04.2012	15.05.2012
14	17,25,37,500	10	172,53,75,000	07.09.2012	04.10.2012
15	16,91,48,500	10	169,14,85,000	19.11.2012	18.12.2012
16	18,02,75,000	10	180,27,50,000	18.03.2013	12.04.2013
17	17,97,71,750	10	179,77,17,500	26.06.2013	17.07.2013
18	19,42,80,750	10	194,28,07,500	30.09.2013	29.10.2013
19	21,02,00,000	10	210,20,00,000	16.12.2013	13.01.2014
20	25,47,06,900	10	254,70,69,000	31.03.2014	16.04.2014
21	25,43,49,600	10	254,34,96,000	31.03.2014	16.04.2014
22	21,23,53,500	10	212,35,35,000	31.03.2014	16.04.2014
23	21,24,77,000	10	212,47,70,000	31.03.2014	16.04.2014
24	148,59,86,910	10	1485,98,69,100	27.02.2015	24.03.2015
25	76,18,64,224	10	761,86,42,240	25.02.2016	26.07.2016
26	112,45,90,200	10	1124,59,02,000	28.10.2016	15.05.2017
27	36,21,84,500	10	362,18,45,000	24.11.2016	15.05.2017



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The applicant filed form FC-GPRs as indicated above with delay ranging from four months one day to five months 17 days approximately beyond the prescribed limit in respect of the allotments at Sl.No.25 to 27. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

3a. Subsequent to Notification No. FEMA 20(R)/2017-RB, the company allotted shares and filed FC-GPR as detailed below:

Sl. No	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	189,26,54,000	10	1892,65,40,000	05.02.2018	28.05.2018

The applicant filed form FC-GPR as indicated above with delay of two months 23 days approximately beyond the prescribed limit in respect of the allotment. Whereas in terms of Regulation 13.1(2) to Notification No. FEMA 20(R)/2017-RB, an Indian company issuing capital instruments to a person resident outside India and where such issue is reckoned as Foreign Direct Investment, for the purpose of these regulations, shall report such issue in Form FC-GPR to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than thirty days from the date of issue of capital instruments. Issue of 'participating interest/ rights' in oil fields shall be reported in Form FC-GPR.

4. The applicant was advised about the contraventions vide memorandum dated January 05, 2018. The applicant has filed a compounding application dated July 04, 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 July 04, 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 August 21, 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 August 28, 2018 during which Shri Sudhagar G and Varatharaj Kumar, Deloitte Haskins & Sells LLP represented the applicant. The authorized representatives of the applicant admitted the contravention as stated in para 2a to 3a 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 submissions 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) Regulation 13.1(1) to Notification No. FEMA 20(R)/2017-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2a above. The contravention relates to an amount of ₹1515,29,20,000.00 with duration of contravention ranging from three days to seven days approximately;
- (b) Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of



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₹ 2248,63,89,240.00 with duration of contravention ranging from four months one day to five months 17 days approximately: and

(c) Regulation 13.1(2) to Notification No. FEMA 20(R)/2017-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 1892,65,40,000.00 with duration of contravention being two months 23 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 **₹4,02,000/-** (Rupees Four Lakhs and two thousand only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of Regulation 13.1(1) and 13.1(2) of Notification No. FEMA 20(R)/2017-RB & 9 (1) B 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 **₹ 4,02,000/-** (Rupees Four Lakhs and two 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 Twenty ninth day of August, 2018.



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Sd/-

Dr.K.Balu

Chief General Manager