



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
5<sup>th</sup> Floor, Amar Building  
Sir P M Road  
Mumbai - 400 001

Present

**S.Arumugam**  
**Assistant General Manager**

Date: September 12, 2018  
CA No 4669 / 2018

In the matter of

**Tata Steel Ltd (TSL)**  
**One Forbes, 6<sup>th</sup> Floor, 1 Dr V B Gandhi Marg**  
**Fort, Mumbai 400 001**

**(Applicant)**

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

### **Order**

The applicant has filed the application dated March 28, 2018 (received at the Reserve Bank on April 02, 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 submission of Form ODI Part I (effecting remittances without obtaining UIN) (ii) Delay in submission of Annual Performance Reports (APRs) within the stipulated time period and (iii) Disinvestment with write off without the submission of APRs.



The above amount to the contravention of Regulations 6(2) (vi), 15(iii) and 16(1) (v) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant, Tata Steel Limited (CIN No.L27100MH1907PLC000260) is a company incorporated on August 26, 1907. It is registered with RoC Mumbai and is involved in the manufacture of basic iron and steel. Kalimati Investment Company Ltd (KICL), is a Wholly Owned Subsidiary (WOS) of Tata Steel Limited (TSL) incorporated on September 15, 1983, with CIN No. 659990MH1983PLC030848 is involved in financial intermediation and is registered with RoC Mumbai. In November 2005, KICL had set up a WOS named Bangla Steel & Mining Company Limited (BSMC) in Bangladesh under automatic route. As a part of incorporation expenses, remittances amounting to Bangladesh Taka (BDT) 999,800 (USD 15,218.40/INR 6,72,622.06) were made during September to November 2005, through Standard Chartered Bank. In February 2006, 9998 equity shares of BDT 100 each were allotted by BSMC in favour of KICL. However, the IP had not applied for the UIN after incorporation and consequently APRs were also not filed by the IP.

Subsequently, the IP, KICL was merged with TSL with effect from January 01, 2013. Consequently BSMC became the wholly owned subsidiary of TSL. TSL then submitted Form ODI Part I with a delay on July 17, 2007. However this was with a delay beyond the stipulated time period in contravention of Regulation 6(2) (vi) of Notification No. FEMA 120/RB-2004 dated July 07, 2004. The applicant had reported Annual Performance Reports (APRs) for period 2006 to 2008 with delay on December 07, 2017 and for the period 2009 to 2016 with delay on October 13, 2017, contravening Regulation 15(iii) of Notification *ibid*. Later, UIN was allotted on August 16, 2017. The investment was then written off by TSL on December 16, 2016. However, this disinvestment was effected without the submission of APRs, which is not in compliance with Regulation 16(1) (v) of the Notification *ibid*.



3. (i) In terms of Regulation 6(2)(vi) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, Overseas Direct Investment is permitted in certain cases provided “ the Indian Party submits Part I of the Form ODI, duly completed, to the designated branch of an authorized dealer”.

(ii) Further, Regulation 15 (iii) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, states that, “An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall submit to the Reserve Bank, through the designated Authorized Dealer, every year on or before a specified date, an Annual performance Report (APR) in Part III of Form ODI in respect of each JV or WOS outside India.....”.

(iii) Further, in terms of Regulation 16(1) An Indian Party may transfer, by way of sale to another Indian Party which complies with the provisions of Regulation 6 above, or to a person resident outside India, any share or security held by it in a JV or WOS outside India subject to the following conditions:.....(v) the overseas concern has been in operation for at least one full year and the Annual Performance Report together with the audited accounts for that year has been submitted to the Reserve Bank;

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/10356/15.20.67/2017-18 dated June 15, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on July 24, 2018 during which Mr Sandip Basu, Chief Treasury Management, TSL and Mr Santosh Ahire, Senior Manager, TSL, represented the applicant. The representatives, of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and was unintentional. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulations 6(2) (vi), 15(iii) and 16(1) (v) of Notification No.FEMA.120/2004-RB amount of



contravention is Rs.6,72,622.06/- and period of contravention ranges from one year three months to eleven years approximately.

6. It has been declared in the compounding application dated March 28, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. The applicant had declared that they are under investigation by DoE, Kolkata. The DoE vide letter F.No.RBI/SDE/WR/B-180/2018/746 dated May 28, 2018 has accorded No objection for initiating compounding procedure under FEMA by the RBI. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs.2, 18,408- (Rupees Two lakh eighteen thousand four hundred and eight only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 6(2)(vi),15(iii) and 16(1)(v) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 2,18,408/- (Rupees Two lakh Eighteen thousand four hundred and eight only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed accordingly.

Dated this the twelfth day of September, 2018

Sd/-

**(S Arumugam)**  
**Assistant General Manager**