



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

J. K. Pandey
Chief General Manager

Date: August 30, 2018

C.A. No. 758/2018

In the matter of

Masco Home Products Private Limited
Survey No. 236 & 237
Taco Road, Hinjewadi, Taluka-Mulsi
Pune – 411 057
(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 the compounding application dated April 04, 2018 (received at the Reserve Bank of India on April 10, 2018) 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 are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India (iii) delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns), in terms of paragraphs 9 (1) (A), 9 (1) (B) and 9 (2) respectively, 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 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 April 10, 2007, under the Companies Act, 1956 as Masco Home Products Private Limited. Its main activities are to carry on the business of designers, manufacturers, producers, fabricators, assemblers, importers, exporters, buyer, sellers, of all kinds of home products, including without limitation cabinets, household fittings, home furnishing, cabinets, and household requisites of all kinds and all things capable of being used therewith or in maintenance, repairs thereof.

3. The applicant received foreign inward remittances from Masco Home Products S.A.R.L., Luxembourg towards equity / preference share capital and reported the same to the Reserve Bank of India as indicated in the table.

Sr. No.	Amount received INR	Date of receipt	Date of reporting	Delay
1	39,50,000.00	31-01-2008	28-04-2008	0Y 1M 27D
2	40,00,000.00	13-02-2008	28-04-2008	0Y 1M 16D
3	1,60,00,000.00	11-03-2008	28-04-2008	0Y 0M 18D
4	40,00,000.00	17-04-2008	03-11-2009	1Y 5M 17D
5	65,50,000.00	12-06-2008	03-11-2009	1Y 3M 22D
6	23,00,000.00	20-03-2009	06-03-2010	0Y 10M 15D
7	20,00,000.00	29-06-2009	03-11-2009	0Y 3M 5D
Total	3,88,00,000.00			

The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 18 days to 01 Year 05 Months 17 Days, approximately, in respect of remittances listed at serial no. 01 to 07 above. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report foreign inward remittances to the Reserve Bank of India as per the



prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

Sr. No.	No. of shares	FV in INR	Premium in INR	Amount involved INR	Date of allotment	Date of filing	Delay
1	119750	10	190	2,39,50,000.00	25-07-2008	19-02-2009	0Y 5M 26D
2	5714	10	690	39,99,800.00	03-10-2008	17-11-2009	1Y 0M 15D
3	9357	10	690	65,49,900.00	03-12-2008	03-11-2009	0Y 10M 1D
4	5000	10	450	23,00,000.00	12-09-2009	14-03-2011	1Y 5M 0D
5	4000	10	490	20,00,000.00	12-12-2009	24-04-2012	2Y 3M 13D
			Total	3,87,99,700.00			

The applicant filed form FC-GPR as indicated at serial No. 01 to 05 above with a delay ranging from 05 Months 26 Days to 02 Years 03 Months 13 Days approximately. Whereas, in terms of Paragraph 9(1) (B) of Schedule 1 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.

5. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Year 2008-09 and FLA return for the Financial Year 2013-14 was not filed on or before July 15. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15th day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.



6. The applicant was given an opportunity for personal hearing vide e-mail dated August 6, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on August 10, 2018, during which Shri. Harsh Shah, Partner 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 personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

7. 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 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.3,88,00,000.00 (Rupees Three Crore Eighty-Eight Lakh Only) and the delay ranging from 18 Days to 01 Year 05 Months 17 Days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.3,87,99,700.00 (Rupees Three Crore Eighty-Seven Lakh Ninety-Nine Thousand Seven Hundred Only) and the delay ranging from 05 Months 26 Days to 02 Years 03 Months 13 Days approximately.

(c) Paragraph 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to non-filing of Annual Return on Foreign Liabilities and Assets (FLA) for the Financial Year 2008-09 and delayed FLA return for the Financial Year 2013-14.



8. It has been declared in the compounding application dated April 04, 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. It has further been stated in the declaration dated July 18, 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.

9. 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.1,12,065/- (Rupees One Lakh Twelve Thousand Sixty Five Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1) (A), 9(1) (B) and 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.1,12,065/- (Rupees One Lakh Twelve Thousand Sixty Five Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in



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C.A. No. MUM758

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.

11. The above order is passed only in respect of contraventions of para 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 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: August 30, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)

Chief General Manager