



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 : October 24, 2018
C.A.816/2014

In the matter of

M/s. Codina Metallic Pvt Ltd.,
Plot No. 62 & 63, EPIP,
SIPCOT, Gummidipoondi,
Thiruvallur-601 201

(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 26, 2018 (received at Reserve Bank on July 26, 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 (ii) delay in submission of Form FC-GPR on allotment of shares to Reserve Bank and



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(iii) delay in allotment of shares and iv) delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns) in terms of Paragraph 9 (1) A, Paragraph 9 (1) B, Paragraph 8 and 9(2) respectively, 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 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 May 17, 2007 under the provisions of the Companies Act, 1956 (Registration No. U27106TN2007PTC063541) and is engaged in business of Manufacture of other structural metal products. The applicant received foreign inward remittances from i) Manipuladous Codina, Spain ii) Marta Codina, Spain iii) Manuel Codina, Spain iv) M/s Bandas Metalica Codina S.L, Spain v) M.Codina S.L, Spain towards subscription to equity shares and reported the same to Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance ₹	Date of receipt	Reported to RBI on
1	22,100.00	07.08.2007	02.07.2008
2	1,93,375.00	07.08.2007	02.07.2008
3	22,72,000.00	21.01.2008	30.05.2008
4	90,88,000.00	21.01.2008	30.05.2008
5	37,62,000.00	15.04.2008	30.05.2008
6	1,50,48,000.00	15.04.2008	30.05.2008
7	31,65,500.00	29.01.2009	06.05.2009
8	31,65,500.00	29.01.2009	06.05.2009
9	45,69,694.00	15.04.2009	06.05.2009
10	45,69,694.00	23.04.2009	06.05.2009
11	72,42,585.00	15.09.2009	30.09.2009
12	71,67,610.00	18.09.2009	30.09.2009
13	34,12,000.00	26.09.2012	06.10.2012
14	70,55,000.00	14.12.2012	03.01.2013
15	69,21,000.00	02.04.2013	20.04.2013
16	91,71,250.00	04.06.2013	25.06.2013
17	85,19,500.00	11.07.2013	05.08.2013
18	1,00,80,000.00	14.02.2014	08.03.2014



The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 15 days to nine months 25 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. Nos. 1 to 8. Whereas, in terms of paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report 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.

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

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment of shares	Reported to RBI on
1	20000	10	2,00,000.00	07.08.2007	29.04.2008
2	1136000	10	1,13,60,000.00	21.01.2008	02.05.2008
3	1547	10	15,470.00	03.05.2008	17.06.2008
4	1881000	10	1,88,10,000.00	09.05.2008	18.06.2008
5	633100	10	63,31,000.00	27.02.2009	22.06.2009
6	913938	10	91,39,380.00	06.05.2009	22.06.2009
7	1441019	10	1,44,10,190.00	09.10.2009	12.10.2009
8	341200	10	34,12,000.00	17.10.2012	17.06.2013
9	705500	10	70,55,000.00	30.01.2013	17.06.2013
10	2461175	10	2,46,11,750.00	09.08.2013	05.11.2013
11	1008000	10	1,00,80,000.00	08.08.2014	09.09.2014

The applicant filed the form FC-GPRs as indicated above with delay ranging from two days to seven months 22 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 1 to 6, 8 to 11. 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.

4. The company allotted 1547 shares of ₹10/- each on 03.05.2008 against balance amount of inward remittances received on 07.08.2007 as detailed below:



Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	07.08.2007	15,470.00	03.05.2008

The company allotted shares with delay of two months 26 days approximately 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.

5. The company has delayed the filing of the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Years 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13. 2013-14, 2014-15 and 2015-16. 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. 45 dated March 15, 2011, 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 advised about the contraventions vide memorandum dated December 04, 2014. The applicant has filed a compounding application dated July 26, 2018 wherein it has been declared in the compounding application 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 26, 2018 furnished with the compounding application that the applicant was under investigation by Directorate of Enforcement (DoE) as on the date of the application. Accordingly, RBI vide letter dated August 16, 2018 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to rule 8(2) of the Compounding Rules to compounding of the contraventions sought to be compounded by the applicant. A reminder dated September 28, 2018 was issued to DoE in this regard giving another 7 days to respond. DoE has not furnished any



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response whatsoever. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

7. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 17, 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 October 24, 2018 during which Shri P Venkatesan, Partner, R Bhupathy & Co., represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 to 5 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.

8. 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 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 3,67,16,475.00 with duration of contravention ranging from 15 days to nine months 25 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. The contravention relates to an amount of



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₹ 9,10,14,600.00 with the duration of contravention ranging from two days to seven months 22 days approximately;

(c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 15,470.00 with the duration of contravention being two months 26 days approximately; and

(d) Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in filing of Annual Return on Foreign Liabilities and Assets for the Financial Years 2007-08 to 2015-16

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 ₹1,57,837/- (Rupees one lakh fifty seven thousand eight hundred and thirty seven 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, 8 and 9(2) 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 ₹ 1,57,837/- (Rupees one lakh fifty seven thousand eight hundred and thirty seven 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.



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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 fourth day of October, 2018.

Sd/-

Dr. K Balu

Chief General Manager