



In the

Reserve Bank of India
Foreign Exchange Department
5th Floor, Amar Building
Sir PM Road
Mumbai – 400001

Present

R. Seetharaman
Deputy General Manager

Date: April 10, 2017
CA NO: 4206/2016

In the matter of

Apollo Tyres Limited
Regd. Office: 3rd Floor, Areekal Mansion, Panampilly Nagar,
Kochi, Kerala - 682 031

Office Address for correspondence purpose: 7 Institutional Area, Sector 32,
Gurgaon 122001, Haryana

(Applicant)

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

The applicant has filed a compounding application dated November 2, 2016 (received in the Reserve Bank of India on November 4, 2016) for compounding the 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) disinvestment of shares of Apollo Tyres Cooperatief U.A, Amsterdam, Netherland without submission of fair valuation certificate and (ii) disinvestment within one year under automatic route. The above were in contravention of Regulation 16(1) (iii) and 16 (1) (v) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified



vide Notification No 120/2004-RB dated July 4, 2004, as amended

from time to time.(hereinafter referred to as Notification No FEMA 120-RB 2004).

2. The relevant facts of the case are follows: The applicant was incorporated as Apollo Tyres Limited on September 28, 1972 under the Companies Act, 1956. (CIN NO: L25111KL1972PLC002449). The applicant is engaged in the business of manufacture and sale of tyres. The applicant along with its subsidiary Apollo Mauritius Holdings Pvt Limited set up a step down subsidiary, Apollo Tyres Cooperatief U.A, Amsterdam, Netherland. The details of the remittances made to the above step down subsidiary by the applicant and of disinvestment are as under:

Date	Details	Amount	Amount in INR	Remarks
May 11, 2009	Investment	EUR 35,956	24,16,026.11	UIN No : NDJAZ20090477
July 20, 2009	Disinvestment	EUR 35,956	-	Transferred to its subsidiary Apollo Mauritius Holdings Pvt Limited for a consideration of US\$ 52657/- (equivalent to EUR 35,956).

The applicant did the disinvestment without submission of fair valuation certificate and disinvestment took place within one year under automatic route, thus contravening the provision of regulation 16(1) (iii) and 16 (1) (v) of Notification No FEMA 120-RB 2004).

3. Regulation 16(1) (iii) of the said notification requires that if the shares are not listed on the stock exchange and the shares are disinvested by a private arrangement, the share price is not less than the value certified by a Chartered Accountant / Certified Public Accountant as the fair value of the shares based on the latest audited financial statements of the JV / WOS.

Regulation 16(1) (v) of the said notification requires that 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 the Reserve Bank's letter FED.CO. CEFA .No./8796/15.20.67/2016-17 dated March 1, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on April 6, 2016 during which Shri. Mandeep Sisodia, Division Head, Corporate Finance, Apollo Tyres Ltd and Shri. Jagminder S. Chawla, Chartered Accountant represented the applicant. The representatives informed that the above disinvestment was reported to AD bank in June 2010. The AD bank (Citi Bank) stated that, the applicant has reported the above disinvestment to them in June 2010 vide its letter dated June 5, 2015. The representatives of the applicant submitted that the applicant has not derived any economic benefit/ advantage on account of the contravention, the above disinvestment was done by transfer within its group and represents group restructuring and the above contraventions have not resulted in any loss to the Indian exchequer. The application is considered on the basis of the averments made in application, documents produced and submissions made by the representatives of the applicant during the personal hearing.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 16 (1) (iii) and 16(1) (v) of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.

Regulation 16(1) (iii)-As specified in Para 2 above. Amount of contravention- Rs.24,16,026.11/- (EURO 35,956/-) and the period of contravention is 7 years approximately.

Regulation 16(1) (v) – Amount of contravention- Rs.24,16,026.11/- (EURO 35,956/-) and the period of contravention is 1 year approximately.

6. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, taking into account the relevant facts and circumstance 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.1,30,200/- (Rupees on lakh thirty thousand two hundred only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 16(1) (iii) and 16(1) (v) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant stated above on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs. 1,30,200/- (Rupees on lakh thirty thousand two hundred only) which shall be deposited by the applicant with the Reserve Bank of India, 11th Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the 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 shall apply.

The application is disposed accordingly.

Dated this tenth day of April 2017.

Sd/-

(R.Seetharaman)

Deputy General Manager