



In the

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

Present

J.K. Pandey
Chief General Manager

Date: May 26, 2017
CA No 4237 / 2016

In the matter of

Laxmi Diamond Pvt. Ltd.
EW 2200, 2nd Floor, Bharat Diamond Bourse
Bandra Kurla Complex, Bandra (E)
Mumbai - 400051

(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 December 02, 2016 (received in the Reserve Bank on December 02, 2016), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is non-repayment of foreign currency credit, extended by the overseas supplier of goods, for a period exceeding six months. Non-payment of foreign currency credit within the stipulated timeframe amounts to contravention of Regulation 5 (3) of Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated 3rd May



2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 3/2000-RB).

2. The relevant facts are as under: The applicant company was incorporated on April 12, 2006 (CIN: U36911MH2006PTC161091). The Company is engaged in the business of exports, imports, manufacture etc. of diamonds, gold, silver, precious and semi-precious stones and jewellery of any kind. The applicant had made certain imports, as follows:

S. No.	Overseas Exporter	Invoice No. and Date	Invoice value (USD)	Date of repayment	Payment done (USD)	Payment done (INR)
1	M/s A Gem Star DMCC, UAE	28/AGS/2013 dated 26.12.2013	2042573.45	04.01.2016	742573.45	256964368
				05.01.2016	590000	
				06.01.2016	330000	
				07.01.2016	380000	
2	M/s A Gem Star DMCC, UAE	27/AGS/2013 dated 26.12.2013	2104020.54	04.01.2016	2104020.54	256964368
3	M/s DM Exports FZE, Dubai	DM-2013/83 dated 30.12.2013	2883484.13	19.01.2016	853484.13	178776008
				06.07.2015	400000	
				30.06.2015	900000	
				01.07.2015	450000	
				02.07.2015	120000	
				02.07.2015	160000	
4	M/s DM Exports FZE, Dubai	DM-2013/86 dated 31.12.2013	2411607.30	19.01.2016	1696607.30	149254357
				09.07.2015	160000	
				08.07.2015	430000	
				07.07.2015	125000	



5	M/s A Gem Star DMCC, UAE	29/AGS/2013 dated 29.12.2013	2935366.59	19.01.2016	1770000	181992692
				26.06.2015	775000	
				29.06.2015	390366.59	
6	M/s Namrata Diamond FZE	84/2013 dated 13.01.2014	1715739	30.06.2015	100000	105552263
				07.07.15	840000	
				08.07.2015	125000	
				09.07.2015	130000	
				10.07.2015	520739	
7	M/s Namrata Diamond FZE	80/2013 dated 28.11.2013	1982873.80	26.06.2015	1780000	123691618
				29.06.2015	202873.80	
			Total		16075664.81	99,62,31,306

RBI gave approval for repayment of the foreign currency credit beyond 180 days vide letters dated June 24, 2015 and July 24, 2015, subject to compounding.

3. In terms of Regulation 5 (3) of Notification No.FEMA.3/2000-RB dated May 03, 2000 as amended from time to time "An importer in India may, for import of goods into India, avail of foreign currency credit for a period not exceeding six months extended by the overseas supplier of goods....". The Reserve Bank has issued necessary directions vide AP (DIR Series) Circulars, laying down the basic rules for availing of foreign currency credit in case of import of goods.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/10986/15.20.67/2016-17 dated May 04, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on May 17, 2017 during which Shri John Mathew, Chief Accounts Manager, Laxmi Diamond Pvt. Ltd., and Shri M.K. Ray, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations, owing to business losses and adverse market conditions, and requested that a lenient view may be taken in



the matter. 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 Regulation 5 (3) of Notification No.FEMA.3/2000-RB dated 3rd May 2000 as amended from time to time. The amount of contravention is Rs. 99,62,31,306/- and the period of contravention ranges from one year to two and a half years approximately.

6. 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. 55,38,342/- (Rupees fifty five lakh thirty eight thousand three hundred and forty two only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 5 (3) of Notification No.FEMA.3/2000-RB dated 3rd May 2000 as amended from time to time, on payment of a sum of Rs. 55,38,342/- (Rupees fifty five lakh thirty eight thousand three hundred and forty two 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 twenty sixth day of May, 2017

Sd/-

J.K. Pandey
Chief General Manager