



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present

Smt. Anupam Sonal
Chief General Manager

Date: August 28, 2017
C.A.NDL 249/2017

In the matter of

APL Logistics Vascon Automotive Private Limited
1017 to 1022, 10th Floor, DLF Tower B, Jasola, New Delhi 110025

(Applicant)

In exercise of the powers under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following order.

Order

The applicant has filed compounding application dated July 3, 2017 (received in Reserve Bank of India on July 5, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)(A) 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 3rd May, 2000 as amended from time to time (hereinafter referred to as FEMA 20/2000- RB) and (ii) delay in submission of form FC-GPR after allotment of shares in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000- RB

2. The relevant facts of the case are as follows:



- a) The applicant company was incorporated under the Companies Act, 1956 on March 2, 2012 and allotted registration No. U60200DL2012PTC232363 by Registrar of Companies. The company is a third party logistics specialist, providing finished vehicle distribution on all India basis through private rail car on Indian Railway network.
- b) The company had received a total of 16 foreign inward remittances from June 15, 2012 to September 15, 2016 for issue of equity shares, out of which, on 12 occasions, the company had reported inward remittances with delay ranging from 17 days to 7 months and 24 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB			
S.No.	Date of Receipt	Amount (Rs.)	Date of reporting to RBI
1	15.06.2012	2,68,74,551.00	07.11.2012
2	18.06.2012	2,68,74,551.00	07.11.2012
3	24.06.2014	13,50,00,000.00	20.03.2015
4	25.06.2014	13,50,00,000.00	20.03.2015
5	15.12.2014	10,68,00,000.00	27.03.2015
6	17.12.2014	10,68,00,000.00	27.03.2015
7	16.04.2015	5,40,00,000.00	02.06.2015
8	22.04.2015	5,40,00,000.00	06.10.2015
9	10.07.2015	6,30,00,000.00	12.11.2015
10	16.07.2015	6,30,00,000.00	30.10.2015
11	09.11.2015	10,80,00,000.00	18.01.2016
12	09.11.2015	10,80,00,000.00	20.01.2016
		98,73,49,102.00	

Whereas, in terms of Paragraph 9 (1) (A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, receipt of amount of consideration towards share subscription not later than 30 days from the date of receipt of the said amount.

- c) The company had allotted equity shares on 8 occasions and reported it in form FC-GPR with a delay ranging from 26 days to 8 months and 25 days (as



detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Contravention of Para 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB				
S. No.	Date of Allotment	No. of Shares Allotted	Amount (Rs.)	Date of reporting to RBI
1	06.08.2012	90000	5,37,48,900.00	28.01.2013
2	27.06.2014	450000	27,00,00,000.00	21.04.2015
3	29.12.2014	356000	21,36,00,000.00	25.04.2015
4	28.04.2015	180000	10,80,00,000.00	12.10.2015
5	20.07.2015	210000	12,60,00,000.00	10.11.2015
6	19.11.2015	360000	21,60,00,000.00	25.01.2016
7	28.04.2016	363280	21,79,68,000.00	06.07.2016
8	29.09.2016	189750	18,97,50,000.00	24.11.2016
			1,39,50,66,900.00	

Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 to 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 a person resident outside India.

Thus, there are contraventions of Paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to FEMA Notification No 20 /2000-RB dated May 3, 2000.

3. The applicant was given an opportunity for personal hearing for further submission in person and/or by producing documents, if any, in support of the application. Sh.Tarak Nath Haldar, Manager, Finance and Sh. Devendra Singh Bisht, Assistant Manager, Finance appeared for the personal hearing on August 28, 2017 on behalf of the company. The representatives of the applicant company admitted the contraventions committed by them for which the company has sought compounding. They stated that delay was due to delay in issuance of FIRC by the AD bank. They further stated that the company was also not aware of the FEMA compliances which led to these contraventions and as such requested for 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 submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9 (1) (A) of Schedule 1 to FEMA 20/2000-RB due to delay in reporting the inflow of funds from a person resident outside India. The contravention relates to an amount of Rs.98,73,49,102.00 and the duration of contravention is ranging from 17 days to 7 months and 24 days.

(b) Paragraph 9 (1) (B) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of form FC-GPR with RBI. The contravention relates to an amount of Rs.1,39,50,66,900.00 and duration of contravention ranges from 26 days to 8 months and 25 days, beyond the prescribed period of 30 days.

5. 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. 5,55,000/-(Rupees Five lakh fifty five thousand only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1)(A) and 9 (1)(B) of Schedule 1 to FEMA 20/2000-RB by the applicant on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of Rs. 5,55,000/- (Rupees Five lakh fifty five thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi-100001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 of accordingly.

Dated this the 28th day of August, 2017.

Sd/-

(Anupam Sonal)
Chief General Manager