



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present

Jayant Kumar Dash
Chief General Manager (The Regional Director)

August 16, 2017
CEFA.CO.ID.7996 / C.A.No. AHM- 83 / 2017-18

In the matter of

M/s Stros Esquire Elevators and Hoists Pvt. Ltd.
301, Shreeram, 10 Haribhakti Colony Ext., Race Course, Vadodara - 390007
Gujarat

(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 there under, I pass the following order:

Order

The applicant has filed compounding application dated May 6, 2017 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of paragraphs 9(1)(A) and 9(1)(B) 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 3rd May 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 December 1, 2014 under the provisions of the Companies Act, 1956, CIN: U29253GJ2014PTC081390. The company is engaged in manufacturing of other lifting and handling equipment. The applicant company has received total seven inflows amounting to ₹3,07,44,860/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected: (Table -1)

Sr No	Remitter	Date of receipt	Amount of foreign inward remittance (Rs)	Date of reporting to AD bank by company	Date of reporting by AD bank to RBI	*Days delay excluding prescribed time of 30 days*
1	Stros Sedlcanske Strojirny, A.S.	30/03/2015	2011733	03/04/2015	25/05/2015	No delay
2	Stros Sedlcanske Strojirny, A.S.	02/01/2017	6928000	16/01/2017	09/02/2017	No delay
3	Stros Sedlcanske Strojirny, A.S.	05/04/2017	6505280	20/04/2017	28/04/2017	No delay
4	Stros Sedlcanske Strojirny, A.S.	04/05/2017	2374280	11/05/2017	22/05/2017	No delay
	Sub Total A		17819293			
5	Stros Sedlcanske Strojirny, A.S.	22/04/2015	2005106	25/05/2015	25/05/2015	3 days
6	Stros Sedlcanske Strojirny, A.S.	18/02/2016	3966371	29/03/2016	28/04/2016	10 days
7	Stros Sedlcanske	06/10/2016	6954090	20/12/2016	16/01/2017	45 days



	Strojirny, A.S.					
	Sub Total B		12925567			
	Grand Total (A+B)		30744860			

* The date for calculation of delay under 9(1)(A) taken from date of inflow reporting by Company to AD.

The applicant reported the receipt of seven inward remittances, amounting to ₹3,07,44,860/- to the Ahmedabad Regional Office of the Reserve Bank of India. Out of which, three inflows amounting to ₹1,29,25,567/- were reported with a delay ranging from 3 to 45 days and four inflows amounting to ₹1,78,19,293/- were reported within stipulated period. 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 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

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

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3,

2000 –Contravention detected:

(Table -2)

Sr. No.	Name of the Foreign Investor	No of shares issued	Amount of shares (Rs)	Date of issue of shares	Date of submission of FC-GPR by company to AD	Date of submission of FC-GPR by AD bank to RBI	*Days delay excluding prescribed time of 30 days*
1	Stros Sedcanske Strojirny, A.S.	200000	**2000000	08/06/2015	21/08/2015	21/08/2015	44 days
2	Stros Sedcanske Strojirny, A.S.	692800	6928000	02/01/2017	15/02/2017	20/02/2017	14 days
3	Stros Sedcanske Strojirny, A.S.	200000	**2000000	01/04/2015	25/08/2015	25/08/2015	116 days
4	Stros Sedcanske	396600	3966000	19/02/2016	02/07/2016	15/07/2016	104 days



	Strojirny, A.S.						
5	Stros Sedlcanske Strojirny, A.S.	695400	6954000	07/10/2016	23/01/2017	20/02/2017	78 days
	Sub Total A	2184800	21848000				
6	Stros Sedlcanske Strojirny, A.S	650500	6505000	08/04/2017	04/05/2017	22/05/2017	No delay
7	Stros Sedlcanske Strojirny, A.S	237428	2374280	05/05/2017	15/05/2017	22/05/2017	No delay
	Sub Total B	887928	8879280				
	Total	3072728	30727280				

* The date for calculation of delay under 9(1) (B) taken from date of FC-GPR reporting by Company to AD.

** Out of inflow amount received on 30.03.2015 ₹20,11,733/- at Sr. No. 1 (Table - 1) excess amount of ₹11,733/- was refunded on 30.09.2015 after 184 days from the date of receipt i.e. with a delay of 4 days which have been ignored and out of inflow received on 22.04.2015 ₹20,05,106/- at Sr. No. 5 (Table 1) excess amount of ₹5,106/- was refunded on 30.09.2015 after 161 days from the date of receipt. Excess amount Rs.280/- at Sr. No. 6, Rs.371/- at Sr. No. 4 and Rs.90/- at Sr. No. 7 were ignored.

4. As indicated in the table above, the applicant has filed seven form FCGPRs amounting to ₹3,07,27,280/-. Out of which two form FC-GPRs amounting to ₹88,79,280/- were filed within stipulated period and five forms amounting to ₹2,18,48,000/- with a delay ranging from 14 to 116 days beyond the prescribed timeline of 30 days. 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 the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

5. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.204/06.04.15 (S180)/2017-18 dated August 8, 2017 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 11, 2017 during which



Company Secretary Ms. Ruchita Tushar Patel (M/s DRP & Associates, CS) and Shri Rutvij Khangiwale, Finance Manager represented the applicant. They admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret for the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

6. The representative of the applicant requested that in view of the foregoing, a lenient view may be taken in disposal of the application. 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 personal hearing and thereafter.

7. I have given my careful consideration to the documents on record and submission 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 dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards shares as detailed in paragraph 2 above. The amount of contravention involved is ₹1,29,25,567/- with delay of approximately 3 to 45 days beyond the stipulated time of 30 days.

B) Paragraph 9(1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 3 above. The amount of contravention involved is ₹2,18,48,000/- and the delay is for approximately 14 to 116 days .



8. 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 therefore, I consider that amount of penalty of ₹25,975/- (Rupees Twenty five thousand, nine hundred seventy five only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹25,975/- (Rupees Twenty five thousand, nine hundred seventy five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 16th day of August 2017.

Sd/-

(Jayant Kumar Dash)
Chief General Manager (Regional Director)