



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: September 4, 2017
C.A NO: 4331/2017

In the matter of

Shingora Textiles Limited
26, Feroz Gnadhi Nagar, Lajapat Nagar-3, New Delhi-110024

(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

Order

The applicant has filed a compounding application dated March 07, 2017 (received in the Reserve Bank of India on March 17, 2017) and an addendum letter dated August 1, 2017 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) Without submitting Form ODI, Part I investment in shares of Joint Venture (JV) Viz., Shingora Europe GmbH in Germany and remittance as loan to the said JV (ii) Delay in submission of share certificates/ document as proof of investment made in the said JV (ii) Delay in submission of Annual Performance Report (APR) for the years 2013 to



2015 (iv) proceeds of disinvestment repatriated to India after 90 days and (v) disinvestment with write off without submission of APR. The above were in contravention of Regulation 6(2)(vi), 15(i), 15(iii), 16(1)(v) and 16(2) 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 Shingora Textiles Limited on June 5, 2008 under the Companies Act, 1956. (CIN NO: U17200DL2008PLC179117). The applicant is engaged in the business of manufacturing and sale of textile products and allied activities. The applicant invested EUR 6250 on March 30, 2013 in a JV Viz., Shingora Eurpoe GmbH in Germany by purchasing the equity shares from two resident Individuals (Directors of the applicant company) aggregating to Euro 6250 and settled in Rs 441373.84 on March 30, 2013. The transaction was reported to the Reserve Bank of India with a delay on June 3, 2017 contravening the regulation of 6(2) (vi) of FEMA 120-RB 2004. The applicant sent another remittance of Euro 6250 for equity on May 13, 2013 and reported through the AD Bank on February 26, 2014. The UIN CGJAZ20140391 was allotted under automatic route, for the above remittance of May 13, 2013 condoning the delay. The applicant did not receive any share certificate or any other document as a proof of acquisition of equity shares in the JV although the applicant subsequently furnished the copy of agreement for sale of its shares to the another non-resident shareholder dated January 7, 2016 is in contravention of regulation 15(i) of FEMA-120-RB 2004. Further, on May 30, 2014 the applicant had remitted Euro 18000 as loan to the JV and form ODI Part I was not submitted till the applicant was advised during the personal hearing held on July 18, 2017 as a part of compounding process. The ODI Part I was for the above transaction was submitted on July 27, 2017. This was a contravention of the regulation of 6(2)(vi) of FEMA 120-RB 2004. The applicant reported APRs with a delay for the years 2013 and 2014 on August 18, 2016 and APR for the year 2015 on



March 21, 2017 contravening regulation 15(iii) of FEMA 120-RB 2004. The company vide share purchase agreement dated January 7, 2016 sold its entire shareholding in the JV to one of the non-resident shareholder of the JV, Mr. Ingo Jarmuzek for Euro 1. The applicant did not submit the APR for the disinvestment with write-off of Euro 12499. The remittance of the Euro 1 was received on July 27, 2017. These resulted in contravention of Regulation 16(1)(v) and Regulation 16(2) of FEMA 120-RB 2004 respectively. The details of the remittances made to the above JV and of receipt of the proceedings of disinvestment are as under:

Date	Details	Amount in Euro	Amount in INR	Remarks
March 30, 2013	Investment by purchase from Resident Individuals	6250.00	441373.64	Delay in reporting
May 13, 2013	Investment by remittance	6250.00	446047.00	The reporting was ratified UIN: CGJAZ2014 0391 allotted under automatic route on 26-02-2014
May 30, 2014	Loan by remittance	18000.00	1450485.00	Delay in reporting
Total Investment and loan		30500.00	2337905.64	
January 7, 2016	Total Disinvestment	1.00	72.00	Delay in receipt of proceeds and disinvestment with write-off without submitting APR

The transactions of investment and disinvestment were later reported to the Reserve Bank of India by the applicant through AD bank vide its letter dated



on June 3, 2017 and July 27, 2017 and the transactions were regularised on August 11, 2017 on receipt of the addendum on compounding application from the applicant dated August 1, 2017.

3.1 Regulation 6(2)(vi) of the said notification requires that the Indian Party submits Part I of the Form ODI, duly completed, to the designated branch of an authorised dealer.

3.2 Regulation 15(i) of the said regulation requires that an Indian Party, which has acquired foreign security in terms of the Regulations in Part-I, shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised;

3.3 Regulation 15(iii) of the said notification requires that the Indian party submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time. The APR, so required to be submitted, has to be based on the audited annual accounts of the JV / WOS for the preceding year, unless specifically exempted by the Reserve Bank

3.4. 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;

3.5 Regulation 16(2) of the said notification requires that Sale proceeds of shares / securities shall be repatriated to India immediately on receipt thereof and in any case not later than 90 days from the date of sale of the shares / securities and documentary evidence to this effect shall be submitted to the



Regional office of the Reserve Bank through the designated authorized dealer.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./108/15.20.67/2017-18 dated July 6, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on July 18, 2017 with Shri. Kamlesh Sharma, Assistant General Manager, FED, Central Office (office of the compounding Authority) during which Shri Sandeep Thapar, Manager Exports of the Shingora Textiles Limited represented the applicants. During the personal hearing the transaction relating to the remittance of Euro 18,000 sent to the JV by way of loan on May 30, 2014 was disclosed by the applicant and the party was advised to furnish an addendum to their compounding application dated March 7, 2017 and to report the transactions through the AD bank. The applicant reported the loan transaction on July 27, 2017, submitted addendum to its compounding application listing all the contraventions and sought for compounding. Since, the revised amount of contraventions (Rs.18,91,858.64) exceed the limit assigned for the Assistant General Manager, Reserve Bank of India, the Compounding Authority was changed to the Deputy General Manager. Since, the applicant has furnished all the details and submissions in support of the applications already during the personal hearing held on July 18, 2017 with the previously appointed Compounding Authority, again the personal hearing was not held again with the undersigned the newly assigned compounding authority.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing on July 18, 2017 and addendum with documents submitted vide applicant's letter dated August1, 2017. Accordingly, I hold that the applicant has contravened the provisions of Regulation 6(2)(vi), 15(i), 15(iii), 16(1)(v), and 16(2) of FEMA 120-RB 2004 as amended from time to time. The amounts and period for the contraventions are as follows.



i) Regulation 6(2)(vi) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs.18,91,858.64 (Euro 24250.00) and the period of contravention is 4 years and 2 months approximately for Rs.441373.64 (Euro 6250.00) and 3 years and 2 months approximately for Rs.1450485.00(Euro 18000.00).

ii) Regulation 15(i) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs.887420.64 (Euro 12500.00) and the period of contravention is 2 years and 4 months approximately for Rs.441373.64 (Euro 6250.00) and two years and one month approximately for Rs.446047.00 (Euro 6250.00).

iii) Regulation 15(iii) of FEMA 120-RB 2004 as amended from time to time: Non-submission of 3 numbers of APR (i.e. for the years 2013, 2014, 2015).

iv) Regulation 16(1)(v) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs. 72.00 (Euro 1.00) and the period of contravention is on year and seven months approximately

v) Regulation 16(2) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs.18,91,786.64 (Euro 24250.00) and the period of contravention is on year and three months 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.135220.00 (Rupees one lakh thirty five thousand two hundred and twenty only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 6(2)(vi), 15(i), 15(iii), 16(1)(v) and 16(2) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4,



FED, CEFA
Shingora Textiles Limited
CA No. 4331/2017

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.135220.00 (Rupees one lakh thirty five thousand two hundred and twenty 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 fourth day of September 2017.

-SD-

(R. Seetharaman)

Deputy General Manager