



In the

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

Present

Sandeep Mittal
General Manager

Date: November 23, 2017
CA NO: 4417/2017
In the matter of

C & S Electric Limited
222, Okhla Industrial Estate
New Delhi- 110020

(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 May 29, 2017 (received in the Reserve Bank of India on May 31, 2017) for compounding the 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 are (i) delayed submission of Annual Performance Reports (APRs) for the years 2009 to 2016 and (ii) Delay in submission of Form ODI for 6 remittances made between 2008 and 2010. The above amounts to the contravention of the Regulation 15(iii) and 6(2)(vi) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide



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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 Control and Switchgear Company Limited (subsequently renamed as C & S Electric Limited) on June 15, 1971 with CIN NO: U31909DL1971PLC005672. The applicant is engaged in the business of manufacture of a wide range of electrical and electronic products which find application in power generation, distribution, control, protection and final consumption. The applicant had set up a wholly owned subsidiary (WOS) M/s. C & S Middle East FZE (subsequently renamed as Eta-Com Middle East FZE) in the year 2008 in Sharjah, United Arab Emirates by remitting AED 150,000.00 in October 2008. Subsequently 5 more remittances aggregating AED 416,580 during August 2009 to September 2010 were sent by the applicant. However, Form ODI were finally reported through the AD between January to May 2017. The applicant has also submitted the APRs for the years ended 2009 to 2016 with delay beyond the stipulated period, thereby contravening Regulation 15(iii) of Notification No FEMA 120-RB 2004. All such delayed reporting of transactions was finally regularised by May 8, 2017.

3.1 Regulation 15(iii) of the said Notification requires the Indian Party(IP) to submit to the Reserve Bank every year within the prescribed time from the date of expiry of the statutory period as prescribed by the respective laws of the host country for finalisation of the audited accounts of the Joint Venture / Wholly Owned Subsidiary outside India or such further period as may be allowed by Reserve Bank, an annual performance report in form APR in respect of each Joint Venture or Wholly Owned Subsidiary outside India set up or acquired by the Indian Party and other reports or documents as may be stipulated by the Reserve Bank.



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3.2 Regulation 6(2)(vi) of the said notification requires the IP to submit duly completed Form ODI, as prescribed by the Reserve Bank from time to time, to the designated branch of an authorised dealer.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./4034/15.20.67/2017-18 dated November 10, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on November 23, 2017 during which Shri Amol Khanna and Shri Puneet Gupta from KPMG represented the applicants. An authorisation in favour of these representatives was received from the applicant. As regards contravention of Regulation 6(2)(vi) regarding delayed reporting of form ODI, it has been observed from the submissions made and documents produced by the applicant that the delayed reporting has been made by the AD bank as could be made out from the AD bank's letter dated September 28,2010 and subsequent correspondences related therewith. The application is considered on the basis of the averments made and documents produced in the application.

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 15(iii) of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.

i) Regulation 15(iii) of FEMA 120-RB 2004 as amended from time to time: Annual Performance Reports (APRs) for the years 2009 to 2016 were submitted with delay beyond the stipulated period and the amount of contravention is AED 566,580(INR 72,47,680.00) .

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



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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.80,000 (Rupees Eighty thousand only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(iii) 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.80,000 (Rupees Eighty thousand 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 the twenty third day of November 2017.

Sd/-

(Sandeep Mittal)
General Manager