



In the

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

Present

R. Seetharaman  
Deputy General Manager

Date: November 6, 2017  
CA NO: 4395/2017  
In the matter of

Ambi Vijay Steel Suppliers Private Limited  
305, Second Floor, Patel House, Nr. Vinod Chambers,  
O/s Dariapur Gate, Ahemedabad-380 004

(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 17, 2017 (received in the Reserve Bank of India on May 19, 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 Form ODI Part III of the Annual Performance Report (APR) for the year ended March 31, 2010 and (ii) disinvestment within one year of investment without prior approval of reserve Bank of India. The above amount to the contravention of the Regulation 15(iii) and 16(1)(v) read with 16(3) 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 Ambi Vijay Steel Suppliers on September 17, 2003 with CIN NO: U52339GJ2003PTC042924. The applicant is engaged in the business of trading in steel and related products. The applicant invested in an overseas Joint Venture (JV) M/s. BR Patel Incorporated Inc., USA on July 17, 2009 by acquiring 510 shares at US \$ 10 each aggregating to US \$ 51,000.00. The applicant disinvested the entire investment without write-off on March 19, 2010 within one year without the permission of reserve Bank of India. Thus, this disinvestment in 2010 was in contravention of the regulation 16(1)(v) read with 16(3) of the Notification No FEMA 120-RB 2004). The applicant filed the Form ODI Part II of the APR for the year ended March 31, 2017 to AD bank on May 11, 2017 and the applicant sought for the compounding of the contravention of the provision 15(iii) of the Notification No FEMA 120-RB 2004. The disinvestment was reported to Reserve bank of India through the AD bank on May 8, 2017 and the transaction was regularised on May 17, 2017.

3.1 Regulation 15(III) of the said Notification requires that the Indian party has to submit to the Reserve Bank every year within 60 days 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.

3.2 Regulation 16(1)(v) of the said notification requires that for disinvestment of shares of WOS/ JV, 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.

3.3 Regulation 16(3) of the said notification requires an Indian party, which does not satisfy the criteria specified at sub regulation 16(1), shall apply to the Reserve Bank for permission to transfer by way of sale of shares of a JV / WOS outside India which may be granted subject to such conditions as the Reserve Bank may consider appropriate.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./2843/15.20.67/2017-18 dated September 29, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on October 26, 2017 during which Shri. Tirthesh M. Bagadiya, and Shri. Chintan Parikh, Chattered Accountants represented the applicant. 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. The applicability of submission of APR in terms of regulation 15(iii) of FEMA 120-RB 2004 does not arise, since the JV could not start any business and the applicant had undertaken disinvestment within one year from the date of investment. Accordingly, I hold that the applicant has contravened the provisions of Regulation 16(1)(v) read with 16(3) of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.

i) Regulation 16(1)(v) read with Regulation 16(3) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs.24,63,300.00 (US \$51,100.00) and period of contravention: 7 years and 3 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.68475.00 (Rupees sixty eight thousand four hundred and seventy five only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 16(1)(v) read with 16(3) 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.68475.00 (Rupees sixty eight thousand four hundred and seventy five only) which shall be deposited by the applicant with the Reserve Bank of India, 11<sup>th</sup> 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 sixth day of November 2017.

Sd/-

(R. Seetharaman)

Deputy General Manager