

**NOTICES ISSUED BY THE  
DIRECTORATE OF  
ENFORCEMENT**

***FOREIGN EXCHANGE MANAGEMENT ACT  
(FEMA)***

**The Foreign Exchange Management Act, 1999 (FEMA):** It is a **civil law** enacted to consolidate and amend the laws relating to facilitate external trade and payments and to promote the orderly development and maintenance of foreign exchange market in India. ED has been given the responsibility to conduct investigation into suspected contraventions of foreign exchange laws and regulations, to adjudicate and impose penalties on those adjudged to have contravened the law.



प्रवर्तन निदेशालय  
DIRECTORATE OF ENFORCEMENT,  
मुंबई आंचलिक कार्यालय - I  
MUMBAI ZONAL OFFICE - I  
विदेशी मुद्रा प्रबंध अधिनियम और धनशोधन निवारण अधिनियम  
FOREIGN EXCHANGE MANAGEMENT ACT (FEMA) &  
PREVENTION OF MONEY LAUNDERING ACT (PMLA)  
वित्तमंत्रालय, राजस्व विभाग, भारत सरकार  
MINISTRY OF FINANCE -DEPT. OF REVENUE  
GOVERNMENT OF INDIA  
केसरएहिन्द, चौथामंजिल, करिमभोयरोड, बॅलार्डएस्टेट, मुंबई  
Kaiser-I-Hind, 4th Floor, Currimbhoy Road, Ballard Estate,  
Mumbai-01  
Tel: 022-22719918; Fax: 022-22828930

File No: [REDACTED] Date: [REDACTED]

**ORDER U/S 37 OF FEMA, 1999 READ WITH SECTION 133 (6) OF INCOME TAX ACT, 1961**

Whereas for the purposes of investigation under Foreign Exchange Management Act, 1999 the undersigned considers it necessary to obtain and examine the under mentioned records/documents in the possession of M/s [REDACTED]

Now therefore, in exercise of the power conferred by section 37 of Foreign Exchange Management Act, 1999 (42 of 1999), read with section 133 (6) of the Income tax Act, 1961 (43 of 1961), the undersigned hereby directs that the record/documents mention in **Annexure 'A'** should be furnished to the undersigned within 7 (seven) days of the receipt of this order: -

**Particulars of records/documents required**

**As per Annexure- 'A' enclosed.**

SIGNED AT MUMBAI ON THIS [REDACTED] DAY OF [REDACTED]



To, [REDACTED]

SAMPLE  
NOTICE

### Annexure "A"

1. Details of Company along with details of directors and Ex-Directors of the company including their association details with the company & residential address. The details of other companies with whom the directors are associated /interested may also be provided.
2. Details of all the Bank accounts of the company in India & abroad.
3. Details of all the Imports made by M/s [REDACTED] from year 2015 onwards in the following format, if any:

Sr. No.	Date of Remittance	Name of Beneficiary	Currency	Amount in FCY	Amount INR	Whether import related documents Submitted to the bank, Yes/No, with date	Date of Import	Bill of Entry	Remaining amount in case of partial import

4. Details of all the Exports made by M/s [REDACTED] from year 2015 onwards in the following format, if any:

Sr. No.	Date of Remittance	Name of Remitter	Currency	Amount in FCY	Amount INR	Whether export related documents Submitted to the bank, Yes/No, with date	Date of Export	Shipping Bill No.	Remaining amount in case of partial export

5. Details of foreign inward/outward remittances by the company along with the purpose of the same.
6. Complete details of outstanding Import/Export transactions.
7. Details of communication with Authorized (AD) Bank, RBI or any other Law Enforcement Agency (LEA).
8. Name, contact number & Email id of the concerned person for future correspondence.

SAMPLE  
NOTICE

## Notices issued by the Directorate of Enforcement to whom :-

- **Bills of Entries with Outstanding status** reflecting over the Import Data Processing and Monitoring System (**IDPMS**) and Export Data Processing and Monitoring System (**EDPMS**) **Portal**
- Bills of Entries / Shipping Bills are pending for submission over the Portal after imports / exports transaction done

- **Mismatch in Data transmitted from the ICEGATE Portal to EDI (Electronic Data Interchange) System to Reserve Bank of India for processing of IDPMS / EDPMS Portal**
- **Failure of knocking off of submitted Bills of Entries / Shipping Bills to the AD Banks correspondingly with IDPMS / EDPMS Portal**

- **Export advances received but goods or services not exported outside India; tenure expired**
- **Advances made for import of goods or services but fail to import of goods in India**
- **Outstanding payments against the import of goods after receiving consignments into India**

**Regulation 3(3) FOREIGN EXCHANGE  
MANAGEMENT (EXPORT OF GOODS AND SERVICES)  
REGULATIONS, 2000**

**Notification No.FEMA 23 /2000-RB dated 3rd May  
2000**

*For the removal of doubt, it is clarified that, in respect of export of services to which none of the Forms specified in these Regulations apply, the exporter may export such services without furnishing any declaration, but shall be liable to realise the amount of foreign exchange which becomes due or accrues on account of such export, and to repatriate the same to India in accordance with the provisions of the Act, and these Regulations, as also other rules and regulations made under the Act.*



# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Contravention sought to be compounded	Period of Convention	Amount Involved	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<p><b>Marimed Shipping (India) Private Limited</b></p> <p><b>(CA No. 4385/2017)</b></p> <p><b>Dt. 17/10/2017</b></p>	<p>CGM Mumbai</p>	<p>Non-realization of export proceeds within the stipulated time period</p>	<p>Ranges from 1 year 2 months to 2 years 10 months approximately</p>	<p>Rs. 1,43,15,648.68</p>	<p>Rs. 1,31,891</p>
<b>Facts of the Case</b>				<b>Contraventions sought to be compounded</b>		
<p>Marimed Shipping (India) Private Limited (MSIPL) engaged in the business of organizing marketing operations for the shipping industry and in particular for an overseas entity viz Marimed Shipping inc, Liberia. The invoices remained unpaid by the overseas entity until February 02, 2017 when these outstanding dues amounting to Rs.1,43,15,648.68/- were finally settled. The applicant did not obtain extension from RBI or the Authorized Dealer for realization of proceeds towards these exports. Realization and Repatriation of the export proceeds towards export of services beyond the prescribed period was in contravention of the provisions of Regulation 3(3) of Notification No. FEMA 23/2000-RB.</p>				<p>Accordingly, I hold that the applicant has contravened the provisions of Regulation 3(3) of Notification No. FEMA 23/2000-RB. The amount of contravention is Rs.1,43,15,648.68/- and the duration of contravention ranges from one year two months to two years ten months approximately.</p>		

## **Regulation 9 FOREIGN EXCHANGE MANAGEMENT (EXPORT OF GOODS AND SERVICES) REGULATIONS, 2000**

### **Notification No.FEMA 23 /2000-RB dated 3rd May 2000**

#### ***Period within which export value of goods/software to be realised :-***

*The amount representing the full export value of goods or software exported shall be realised and repatriated to India within **six months from the date of export** :*

*Provided that where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing the full export value of goods exported shall be paid to the authorised dealer as soon as it is realised and in any case **within fifteen months from the date of shipment of goods**;*

*Provided further that the Reserve Bank, or subject to the directions issued by that Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the said period of **six months or fifteen months**, as the case may be.*

#### ***Explanation :***

*For the purpose of this regulation, the 'date of export' in relation to the export of software in other than physical form, shall be deemed to be the date of invoice covering such export.*

# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Contravention sought to be compounded	Period of Convention	Amount Involved	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<b>H F Metal Art Private Limited</b>  (C.A. No. 4939/2019)  Dt. 05/11/2019	CGM Mumbai	Failure to realise export proceeds within the stipulated period	1 day to 7 months approximately	Rs. 10,58,50,346	Rs. 10,32,998
2	<b>Dalmia Cement (Bharat) Limited</b>  (C.A. No. 5024/2019)  Dt. 28/01/2020	DGM Mumbai	Realisation and repatriation of export proceeds beyond the stipulated time period	11 years	Rs. 39,22,447	Rs. 79,419

# **Regulation 13(i) FOREIGN EXCHANGE MANAGEMENT (EXPORT OF GOODS AND SERVICES) REGULATIONS, 2000**

## **Notification No.FEMA 23 /2000-RB dated 3rd May 2000**

*13 Payment for the Export :-*

*“In respect of export of any goods or software for which a declaration is required to be furnished under Regulation 3, no person shall except with the permission of the Reserve Bank or, subject to the directions of the Reserve Bank, permission of an authorised dealer, do or refrain from doing anything or take or refrain from taking any action which has the effect of securing -*

*(i) that the payment for the goods or software is made otherwise than in the specified manner; or....”*

# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Contravention sought to be compounded	Period of Convention	Amount Involved	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<b>Agro Dutch Industries Limited</b>  <b>C.A. No.4921/2019</b>  <b>17/10/2019</b>	CGM Mumbai	The Applicant had received the payment of export from a third party viz. associate company of the importer. Therefore the applicant contravened the provisions of regulation 13(i).	Five years ten months approximately	Rs. 1,13,83,284	Rs. 1,35,375

## **Facts of the Case:-**

The applicant had made exports to Russia during the period June 2013 - September 2013. However, the export proceeds were received from a third party, i.e. associate company of the Russian importer. Pursuant to the same, the AD bank cancelled the Bank Realisation Certificates (e-BRCs) related to the export proceeds received from a third party on the basis of a letter received by the AD bank from the Commissioner of Customs. Due to massive losses, the applicant had discontinued its operation in August 2018. Subsequently, liquidation order was passed by the Hon'ble High court of Punjab & Haryana on 16th May 2019. As the applicant company was liquidated / wound up, the proceeds could not be refunded. In view of the facts of the case and the status of the entity, Trade Division, FED, CO considered the administrative action as deemed to be completed as on the date of submission of the compounding application.

## **Regulation 16 FOREIGN EXCHANGE MANAGEMENT (EXPORT OF GOODS AND SERVICES) REGULATIONS, 2000**

### **Notification No.FEMA 23 /2000-RB dated 3rd May 2000**

#### *16. Advance payment against exports :-*

*(1) Where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under an obligation to ensure that -*

*i) the shipment of goods is made within one year from the date of receipt of advance payment;*

*ii) the rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points, and*

*iii) the documents covering the shipment are routed through the authorised dealer through whom the advance payment is received;*

*Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilised portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.*

# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Facts of the Case:	Period of Convention	Amount Involved	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<p>H F Metal Art Private Limited</p> <p>(C.A. No. 4939/2019)</p> <p>Dt. 05/11/2019</p>	CGM Mumbai	<p>The applicant, an Indian company, received certain export advances to the tune of Rs. 6,30,79,984/- from January 2008 to July 2011. However, the applicant was unable to make the exports within the prescribed time limit. The applicant then adjusted these export advances against exports made during August 2013 to June 2014.</p>	Ranges from eleven months to four years six months approximately	Rs. 6,30,79,984	Rs. 10,32,998



# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Facts of the Case:	Period of Convention	Contraventions sought to be compounded	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<p><b>Shri Ashok Choudhary (Proprietor of M/s. Coropex)</b></p> <p><b>C.A. No. 4952/2019</b></p> <p><b>Dt. 14/11/2019</b></p>	DGM Mumbai	<p>M/s Coropex (the proprietary concern of Ashok Choudhary), received an export advance in 2 instalments, from an overseas buyer AIH General Merchandise in Nigeria. However, the export could not be made as the importer (AIH) was unable to submit requisite import documentation in its own country (namely Form M) for importing of goods into Nigeria. The buyer demanded a refund of the advance, however the applicant claimed its inability to refund the advance payment, as it was utilised for the manufacture of the goods. The goods were specifically designed for the overseas buyer and therefore, only had a scrap value for the exporter.</p>	<p>For Ist Installment : Two years seven months approximately</p> <p>For IInd Installment : Two years five months approximately</p>	<p>Since, the Applicant was unable to make the shipment of goods within one year of receipt of advance against export order, the applicant, therefore, contravened the provisions of Regulation 16.</p>	Rs. 64,217

# Compounding Orders at a Glance :-

Sr. No.	Name of Applicant, Compounding Application Number, Date of Order	Authority and Jurisdiction	Contravention sought to be compounded	Period of Convention	Amount Involved	Compounding Fee levied for all contraventions forming part of the Compounding Application
1	<b>Suncity Sheets Private Limited</b>  C.A. No.4923/2019  26/09/2019	CGM Mumbai	Failure to ship goods within one year from the date of receipt of advance payment; and refund of the unutilisation portion of advance payment after the expiry of one year without RBI permission	7 years 1 month	Rs. 1,41,44,329	Rs. 1,56,082

**THANK YOU**

**CA. Deepender Kumar**