

Analysis of Compounding Orders

Overseas Direct Investment – FEMA Notification No. 120

Everest Kanto Cylinder Limited - CA No. 5008/2019 dated 17/02/2020

Nature of Contravention	Regulation Reference	Amount of Contravention	Period of contravention	Compounding Fee Levied (Rs.)
Delayed repatriation of interest due on loans	Regulation 15(ii) of FEMA 120	21,08,84,700	6 months to 11 years approximately	15,30,025
Delay in submission of APRs	Regulation 15(iii) of FEMA 120	APR for 2007, 2017 and 2018	3 APRs	30,000

Facts of Order and Comments

The company had made ODI in an overseas WOS in China. Company had given loan of USD 59,80,680 to overseas WOS during the period from 2007-2012.

Indian Company failed to receive interest of USD 38,18,654 for multiple loan remittances from its WOS within 60 days. Further, the interest amount was written off with approval of RBI on June 2019. There was also delay in submission of APR for 2007, 2017 and 2018.

As per Regulation 15(ii) of FEMA Notification No. 120 all dues outstanding from WOS must be repatriated back to India within 60 days from the date of its becoming due. Also as per Regulation 15(iii) Indian Party must submit with RBI through AD, every year on or before December 31, an APR in respect of its WOS.

Thus, write off of interest due from WOS by Indian company beyond period of 60 days resulted in contravention of Regulation 15(ii) of FEMA Notification No. 120 and delay in submission of APRs resulted in contravention of Regulation 15(iii) of FEMA Notification No. 120.