



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
5<sup>th</sup> Floor, Amar Building  
Sir P. M. Road  
Mumbai - 400 001

Present

**R.K. Moolchandani**  
**Chief General Manager**

Date: October 17, 2019  
CA No 4921/ 2019

In the matter of

**Agro Dutch Industries Limited**  
**SCO 23, 2<sup>nd</sup> floor, Sector 33-D**  
**Chandigarh – 160 020**

**(Applicant)**

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

### **Order**

The applicant has filed the application dated April 12, 2019 (received in the Reserve Bank on April 24, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded was related to the mode of receipt of payment for an export transaction (through a third party) which was in violation of Regulation 13 (i) of FEMA Notification 23/2000- RB dated May 03, 2000 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide Notification No. FEMA



23/2000-RB dated May 03, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 23/2000-RB).

2. The relevant facts are as under:

The applicant company was incorporated on May 29, 1992, as Agro Dutch Industries Ltd, for growing, processing and canning of white button mushrooms. During June - September 2013, the company had made exports to Russia and the proceeds amounting to USD 187,693.50 were received through the Authorised Dealer (AD) bank. However, the payments were made by a third party - associate company of the importer. The AD bank cancelled the e-BRCs (Bank Realization Certificates) related to the export proceeds received from a third party, after the Commissioner of Customs sent a letter dated February 24, 2015. As the company had run into losses, the operations of the company were discontinued completely in August 2018. Subsequently, liquidation/winding up order has been passed by Hon'ble High court of Punjab and Haryana at Chandigarh on May 16, 2019. As the applicant company is now closed, the proceeds cannot be refunded to the importer. In view of the facts of the case and the status of the entity, Trade Division, FED, CO has considered the administrative action as deemed to be complete as on the date of submission of the compounding application.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/1286/15.20.67/2019-20 dated September 06, 2019 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing was held on September 16, 2019 during which the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter. He also explained the circumstances which gradually led to the company's closure.

4. It has been declared in the compounding application, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration furnished along with the compounding application that the applicant was under enquiry by the Directorate of Enforcement (DoE), in connection with trade related transactions



of the company and that all the details required by DoE at the time had been furnished by the applicant.

RBI, vide its letters reference No. FED.CO.CEFA/6443/15.20.67/2018-19 dated 30.04.2019 and subsequently through a reminder No. FED.CO.CEFA/7121/15.20.67/2018-19 dated 31.05.2019, had sought No Objection Certificate (NOC) from DoE to proceed with the compounding process. DoE, vide its letter reference No. RBI/SDE/WR/B-236/2019/1031 dated 03.07.2019, conveyed their 'no objection' to compounding of the abovementioned contraventions.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing with the Compounding Authority.

Accordingly, compounding of the above contraventions in this Order is subject to the veracity of the above declarations made by the applicant and is also based on the NOC received from DoE. Further, this Order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

5. I have given my careful consideration to the documents on record and submissions made during the personal hearing. It was observed that the applicant has contravened the provisions of Regulations 13 (i) of Notification No.FEMA.23/2000-RB. The amount of contravention is Rs 1,13,83,284 and period of contravention is approximately five years and ten months.

6. In terms of section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. After considering the submissions made by the applicant and the entire facts and circumstances of the case, it stands to reason that payment of an amount of Rs. 1,35,375/- (Rupees One lakh thirty five thousand three hundred and seventy five only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions



committed by the applicant namely, Regulation 13 (i) of Notification No.FEMA.23/2000-RB, on payment of a sum of Rs. 1,35,375/- (Rupees One lakh thirty five thousand three hundred and seventy five only) which shall be deposited by the applicant with the "The Chief General Manager - in - Charge, Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400001" by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' within a period of 15 days from the date of this 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 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this the 17<sup>th</sup> day of October, 2019

**Sd/-**  
**(R.K. Moolchandani)**  
**Chief General Manager**