



In the

**Reserve Bank of India
Foreign Exchange Department
Ernakulam North
Kochi 682 018**

Present

**Smt. Reeny Ajith
Regional Director for Kerala and Lakshwadeep
Reserve Bank of India
Thiruvananthapuram – 695 033**

Date. October 22, 2019

CA No. KOC23 / 2019

In the matter of
**M/s Imperial Spirits Ltd.
11/534, Maniakaranchalla
Govindapuram P.O
Palakkad 678 507
(Applicant)**

In exercise of the powers 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

1 The applicant has filed the compounding application dated May 29, 2019 received at the Reserve Bank of India on June 03, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are in respect of the following Regulations/paras under Schedule 1 of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) dated May 3, 2000 and as amended from time to time (hereinafter referred to as FEMA 20):

(i) Paragraph 8 of FEMA 20: Neither the equity instruments were issued, nor the money refunded to the foreign investor within 180 days from the receipt of the inward remittance

2 Brief details of the applicant company are as follows:

Date of Incorporation	November 09, 1998
Its main activities are:	Distilling, rectifying and blending of spirits

3 The applicant received foreign inward remittances from non-resident investors towards equity shares / compulsorily convertible preference shares/compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

<u>Delay in reporting Foreign Direct Investment &/or delay in allotting the shares/refunding the amount</u>				
Sr No	Amount (₹)	Date of Receipt of Funds	Date of issue of Shares	Paragraph 8 delay
1	4,50,00,000.00	01-09-2014	18-06-2018	3Y 3M 19D
2	3,50,00,000.00	01-09-2014	18-06-2018	3Y 3M 19D
TOTAL	8,00,00,000.00			

4 In respect of remittances amounting to Rs.8,00,00,000/- (Rupees Eight crore and Zero Paise Only), indicated in the table above the company allotted shares/ refunded the amount after 180 days from the date of receipt of investment. Whereas in terms of paragraph 8 of FEMA 20, an Indian company is required to issue shares or refund the amount within 180 days from the date of receipt of inward remittance. The period of delay under this paragraph is 3Y 3M 19D.

5 The applicant was given a personal hearing vide e-mail dated October 16, 2019, for further submission in person and/or for producing documents, if any, in support of the application dated May 29, 2019. The applicant appeared for personal

hearing on October 22, 2019. Shri L.R.Venkatesh, Chartered Accountant represented the company during the hearing with Smt Reeny Ajith, Regional Director, Reserve Bank of India, Thiruvananthapuram at Reserve Bank of India, Kochi. The company admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The company requested that in view of the foregoing a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

6 I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

Paragraph 8 of FEMA 20, since the shares were neither issued nor the amount was refunded to the person resident outside India within the prescribed time from the date of receipt of the inward remittance. The contravention relates to total amount of Rs.8,00,00,000/- (Rupees Eight Crore and Zero Paise Only) and with a delay of 3Y 3M 19D approximately.

7 It has been declared in the compounding application dated May 29, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. A declaration has also been attached to the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any 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.

8 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. However, taking into account the relevant facts and circumstances 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.4,80,000/- (Rupees Four Lakh Eighty Thousand and Zero Paise Only) will meet the ends of justice.

9 Accordingly, I compound the admitted contravention namely, the contravention of Paragraph 8 of FEMA 20, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.4,80,000 (Rupees Four Lakh Eighty Thousand and Zero Paise Only) which shall be deposited by the applicant with Reserve Bank of India, Foreign Exchange Department, Ernakulam North, Kochi -682 018 by a Demand Draft drawn in favour of the “**Reserve Bank of India**” and payable at “**Thiruvananthapuram**” 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.

10 The above order is passed only in respect of contraventions of Paragraph 8 of FEMA 20 and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

11 The application is disposed of accordingly.

Dated this the October 22, 2019.

Compounding Authority

sd/-

(Reeny Ajith)
Regional Director for Kerala and Lakshwadeep
Reserve Bank of India,
Thiruvananthapuram