



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad – 380014

Present
Santosh Kumar Panigrahy
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)

July 19, 2019
CEFA.CO.ID.11617 / C.A. No. AHM - 129 / 2018-19

Matter
Orianaa Decorpack Private Limited
(CIN: U25112GJ2017PTC096596)
B – 302, Safalya Park Lane, Behind Akashvan Complex
Sevasi Road, Vadodara – 390021

गुजरात / Gujarat
(Applicant)

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



Order

Orianaa Decorpack Private Limited (hereinafter referred to as applicant) has filed application dated March 8, 2019, complete in all respects, for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay beyond 30 days in submitting report in Form FC-GPR to the Reserve Bank, through Authorised Dealer bank (AD bank), after the date of issue of shares to persons resident outside India, as required under paragraph 9(1)(B) of Schedule 1 to 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 then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows:

(i) The applicant was incorporated on March 30, 2017 under the provisions of the Companies Act, 2013 (CIN: U25112GJ2017PTC096596). The company is engaged in “manufacture of other plastic products”, bearing NIC Code - 2008: 22209. The applicant has received six foreign inward remittances amounting to ₹2,99,39,491/- from a person resident outside India - Shri Suresh Anandani, USA under automatic route. The applicant has issued 19,95,969 equity shares amounting to ₹2,99,39,491/- to Shri Suresh Anandani.

(ii) The receipt of foreign inward remittances from the person resident outside was reported by the applicant by filing Form ARF as provided below.



Reporting under Paragraph 9(1)(A) – Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000: No contravention detected

(Table - 1)

Sl. No.	Investor	Amount of foreign inward remittance (₹)	Date of receipt	Date of reporting to RBI*	Delay beyond prescribed time of 30 days
1	Suresh Anandani, USA	96,48,211	12-04-2017	03-05-2017	No delay
2		32,16,780	01-06-2017	14-06-2017	No delay
3		32,20,277	10-07-2017	31-07-2017	No delay
4		32,12,285	25-07-2017	01-08-2017	No delay
5		31,95,801	04-09-2017	26-09-2017	No delay
6		74,46,137	22-11-2017	19-12-2017	No delay
Total		2,99,39,491			

* For calculation of days of delay under Para 9(1)(A), date of reporting to AD Bank is taken as reporting to RBI.

(iii) As indicated in the Table - 1 above, the applicant reported the receipt of six foreign inward remittances amounting to ₹2,99,39,491/- to the AD bank within the prescribed period of 30 days from the date of receipt of foreign inward remittance.

(iv) In terms of Regulation 5(1) of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No.FEMA 20/2000-RB), a person resident outside India (other than a citizen of Bangladesh or Pakistan) or an entity incorporated outside India (other than a citizen of Bangladesh or Pakistan) may purchase shares or convertible debentures or warrants of an Indian company under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule 1 to the said Regulations. Paragraph 9(1)(A) of Schedule 1 to the Regulations mandates that an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered



office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, report in Advance Reporting Form as specified by Reserve Bank from time to time, along with documents stipulated therein. The said regulations have been issued by the Reserve Bank of India in exercise of its powers under the provisions of the FEMA, 1999.

(v) The applicant has submitted the report in Form ARF within the stipulated time frame as required under Paragraph 9(1)(A) of Schedule 1 read with Notification No. FEMA 20/2000-RB. Thus, the applicant has not contravened the said provisions of the Notification.

(vi) The applicant allotted equity shares to person resident outside India and reported the same by filing Form FC-GPR as below:

A. Reporting under Paragraph 9(1)(B) – Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000: Contraventions detected

(Table - 2)

Sl. No.	Investor	No. of shares issued	Amount of shares issued (₹)	Date of issue of shares	Date of submission of FC-GPR to RBI *	Delay beyond prescribed time of 30 days
1	Suresh Anandani, USA	6,43,220	96,48,211	10-06-2017	30-12-2017	173
2		2,14,451	32,16,780	31-07-2017	27-01-2018	150
3		2,14,684	32,20,277	31-07-2017	30-12-2017	122
4		2,14,150	32,12,285	31-07-2017	30-12-2017	122
5		2,13,053	31,95,801	23-10-2017	29-01-2018	68
Total: A		14,99,558	2,24,93,354			

* For calculation of days of delay under Para 9(1)(B), date of reporting to AD Bank is taken as reporting to RBI.



B. Reporting under Regulation 13.1(2) to Notification No. FEMA 20(R)/2017-RB dated November 7, 2017: Contravention detected – Late Submission Fees (LSF) Paid

(Table - 3)

Sl. No.	Investor	No. of shares issued	Amount of shares issued (₹)	Date of issue of shares	Date of submission of FC-GPR to RBI *	Delay beyond prescribed time of 30 days
6	Suresh Anandani, USA	4,96,411	74,46,137	27-12-2017	29-01-2018	3 (LSF Paid)
Total: B		4,96,411	74,46,137			
G. Total (A+B)		19,95,969	2,99,39,491			

* For calculation of days of delay under Para 9(1)(B), date of reporting to AD Bank is taken as reporting to RBI.

(vii) As indicated in the Table – 2 and Table – 3 above, the applicant has issued 19,95,969 equity shares amounting to ₹2,99,39,491/- to person resident outside India during June 10, 2017 to December 27, 2017. Out of the above, the applicant has issued 14,99,558 shares amounting to ₹2,24,93,354/- (Sr. No. 1 – 5 of Table – 2) and submitted the report in Form FC-GPR to the AD bank with a delay ranging from 68 to 173 days from date of allotment of shares. Further, as indicated in the Table –3 above, the applicant has issued 4,96,411 shares amounting to ₹74,46,137/- and submitted the report in Form FC-GPR (Sr. No. 6) with a delay of 3 days. However, this has been regularised as the applicant has paid the Late Submission Fee (LSF).

(viii) Paragraph 9(1)(B) of Schedule 1 to the Regulations mandates that an Indian company issuing shares in accordance with these Regulations is required to submit to the Reserve Bank of India through AD bank, a report in Form FC-GPR, as specified by the Reserve Bank from time to time, along with documents stipulated therein, within 30 days from the date of issue of shares to the persons resident outside India.



(ix) The applicant has failed to submit the report in Form FC-GPR within the time frame as required under Paragraph 9(1)(B) of Schedule 1 read with Notification No. FEMA 20/2000-RB, thereby contravening the provisions of the said Notification.

(x) The applicant was given an opportunity for personal hearing vide letter FE.AH.No.1699/06.04.15(A)CEFA/2018-19 dated May 9, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated May 10, 2019 requested to dispose of its application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. The applicant admitted in its application to the contravention for which compounding has been sought and stated that the delay was due to ignorance of FEMA provisions, inadvertence, frequent resubmissions and issues in E-Biz portal. Further, the applicant requested to take a lenient view and also stated that it is willing to accept any direction/ order of the Compounding Authority in connection with the compounding application. The application for compounding is, therefore, being considered on the basis of the statements made in the application as well as other documents and submissions made in this context by the applicant.

3. 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 also been declared that the applicant was not under any enquiry / investigation / adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry / investigation / adjudication proceedings against it 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 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.

4. I have given my careful consideration to the documents on record and submissions made by the applicant in its application. I am satisfied and hold that the applicant has contravened the statutory requirement in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA Notification FEMA 20/2000 – RB dated May 3, 2000, due to delay in submitting report in Form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraphs 2 (vi) and (vii) above. The amount of contravention involved is ₹2,24,93,354/- and the delay in submission ranges from 68 to 173 days.

5. 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 therefore, I consider that an amount of ₹16,825/- (Rupees Sixteen Thousand Eight Hundred Twenty Five only) as penalty, will meet the ends of justice.

6. Accordingly, I compound the admitted contravention, namely contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, by the applicant, on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of ₹16,825/- (Rupees Sixteen Thousand Eight Hundred Twenty Five only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Box No. 1, Ahmedabad – 380 014 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad within a period of 15 days from the date of this order. In case of failure to deposit the compounded



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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 of accordingly.

Dated the 19th day of July, 2019.

Sd/-

(Santosh Kumar Panigrahy)

Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /

Chief General Manager (Ahmedabad)