



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Smt N Sara Rajendra Kumar
General Manager

Date: May 14, 2019
C.A. HYD 412

In the matter of
M/s Tara Coffee (India) Private Limited
Flat no. 18 Deepthi Apartments,
9-1-7/83&84 3rd floor, S.P. road,
Secunderabad 500003

(Applicant)

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

Order

The applicant has filed the compounding application dated February 21, 2019 received on March 6, 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 (i) delay in reporting receipt of foreign inward remittances and (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity and (iii) delay in filing of FLA returns in terms of Paragraph 9(1)(A), Paragraph



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9(1)(B) and Paragraph 9(2) respectively of Schedule 1 to Foreign Exchange Management Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable and as amended.

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

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 05/09/2011 (CIN: U15400TG2011PTC076310). The company is engaged in the business of manufacturing and exporting of all kinds of soluble instant chicory and instant coffee products.
- b) The applicant had received foreign inward remittances for subscription to equity shares as indicated below:

SI No	Name of the Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Chin Corp Holding Pte Ltd (Formally known as East Java (Asia) Pte Ltd)	49,99,250	14/11/2011	26/12/2011
	Total	49,99,250		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **49,99,250/-** to the Regional Office of Reserve Bank of India with delay of approximately 12 days as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

- c) The company allotted shares and filed form FC-GPRs as indicated below.

SNo	Name of the investor	Date of allotment	Number of shares	Amount for which	Date of reporting
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			allotted	shares allotted (INR)	
1	Chin Corp Holding Pte Ltd (Formally known as East Java (Asia) Pte Ltd)	03/05/2012	499925	49,99,250	10/07/2012
	Total			49,99,250	

The applicant filed form FCGPRs for the allotment of shares amounting to ₹49,99,250/- as indicated above and the same was reported with delay of 1 month 7 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

d) The company has delayed filing FLA Returns (Foreign liabilities and Assets) for 5

SI No	Particulars	Financial year	Due date of filing	Date of actual filing
1	FLA Return	2012-13	15/07/2013	23/04/2019
2	FLA Return	2013-14	15/07/2014	23/04/2019
3	FLA Return	2014-15	15/07/2015	23/04/2019
4	FLA Return	2015-16	15/07/2016	23/04/2019
5	FLA Return	2016-17	15/07/2017	23/04/2019

years as shown below:

The company had filed FLA returns for 5 years with delays ranging from 1 year 9 months 8 days to 5 years 9 months 8 days approximately. Whereas, in terms of



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Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

3. (a) The applicant was given an opportunity for Personal Hearing vide Reserve Bank's letter No. HY.FE.FID/2519/14.66.003/2018-19 dated May 10, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The company vide letter dated May 13, 2019 informed us that they choose not to avail of the Personal Hearing. In the application, it was stated that the delay was because of administrative constraints, lack of manpower and guidance and it did not involve any malafide intention. In view of the foregoing, the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of: -

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to **₹ 49,99,250/-** and the delay is 12 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of **₹ 49,99,250/-** and the delay is 1 month 7 days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No. 20/2000-RB for delay in filing of FLA Return to Reserve Bank of India for the five financial years viz 2012-13 to 2016-



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17 and the delay ranges from 1 year 9 months 8 days to 5 years 9 months 8 days approximately.

5. It has been declared in the compounding application dated February 21, 2019 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 dated February 28, 2019 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.

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. 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 contravention is to be compounded and I consider that an amount of **₹ 71,750/-(Rupees Seventy One Thousand Seven Hundred and Fifty Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 9(2) respectively of Schedule 1 to FEMA.20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹ 71,750/-(Rupees Seventy One Thousand Seven Hundred and Fifty Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange



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Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 of accordingly.

Dated this 14th day of May 2019

Sd/-

(N Sara Rajendra Kumar)

General Manager