



In the  
Reserve Bank of India  
Foreign Exchange Department  
Central Vista, Sector 17, P.B.No.2  
Chandigarh-160017

Present

**Sh. Vinod Kumar**  
**Deputy General Manager**

Date: August 05, 2019  
CA No. CHA 41 /2019

In the matter of

**M/s Agmehra Private Limited**  
**Plot No 19(1) Sector 1**  
**Parwanoo- Solan**  
**Himachal Pradesh-173220**  
(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 there under, I pass the following

### **Order**

The applicant has filed a compounding application dated 27.04.2019 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity shares, (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India iii) delay in refund of share application money beyond stipulated 180 days (iv) delay in receipt of inflow beyond stipulated period after issue of shares; in terms of Paragraph 9(1) (A), Para 9(1) (B) and Para 8 of Schedule 1 respectively to the 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (v) delay in filing of FLA returns in terms of regulation 13.1(3) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter



referred to as Notification No. FEMA 20(R)/2017-RB)

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

The applicant company was incorporated on April 19, 2017 under the Companies Act 2013. The applicant is engaged in manufacture of disinfectants (for agricultural and other use).

3. The applicant received foreign inward remittance towards investment in equity shares from non-residents as under:

Sr. No.	Date of Inflow	Indian Currency Amount	<u>Date of reporting to RBI</u>	<u>Delay beyond 30 Days</u>
1.	19.06.2017	22,50,000	14.02.2019	408 Days

\*Delay calculated till 31.08.2018 as the ARF form was discontinued w.e.f 01.09.2018.

The above remittance was not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittance to Reserve Bank of India with delay of **408 Days**, in contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares 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.

4. Further, the applicant company issued shares to the non-resident investor but filed the Form FC-GPR with delay as indicated below.

<u>Sr. No.</u>	<u>Date of inflow</u>	<u>Amount</u>	<u>Shares issued on</u>	<u>Share Amount</u>	<u>Date of reporting to RBI</u>	<u>Delay beyond 30 Days</u>
1	19.06.2017	22,50,000.00	19.04.2017	45,000.00	14.02.2019	636 Days
			17.07.2017	22,05,000.00	14.02.2019	547 Days

The applicant reported the allotment of shares to the Reserve Bank with delay ranging from **547 days to 636 days**. The delay in reporting to the Reserve Bank in Form FC-GPR, beyond the prescribed period of 30 days in respect of allotment of the above shares, is in contravention of the provisions stipulated in the Paragraph 9(1) (B) of Schedule I to FEMA Notification No.20/2000-RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank of India a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of



issue of shares to the person resident outside India.

5. The applicant had received foreign inward remittance with delay beyond stipulated days after issue of MoA shares to a person resident outside India as indicated below.

<u>Sr. No.</u>	<u>Share issue date</u>	<u>Share Amount</u>	<u>Date of Inflow</u>	<u>Amount</u>	<u>Delay</u>
1.	19.04.2017	45,000	19.06.17	22,50,000.00	1 day

As mentioned above, the company issued the shares with delay of **1 day** beyond stipulated period which is a contravention under **paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.**

6. The applicant failed to apply for the permission to refund the excess inflow amount within the scheduled time limit.

<u>Sr. No.</u>	<u>Amount</u>	<u>Share Amount</u>	<u>Shares issued on</u>	<u>Date of inflow</u>	<u>Date of refund</u>	<u>Delay in refunding the amount</u>
2	13,50,000.00	Amount refunded		18.08.2017	18.04.2018	63 Days

As mentioned above, there was delay in refunding the excess amount beyond the stipulated time. This is a contravention under **paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.**

7. The company has delayed in filing FLA Return (Foreign liabilities and Assets for financial year 2017 -2018 as shown below:

<u>Sr. No.</u>	<u>Particulars</u>	<u>Financial Year</u>	<u>Due date of filing</u>	<u>Date of actual filing</u>
1	FLA Return	2017-18	15.07.2018	29.04.2019

The applicant has filed FLA return for FY 2017 -2018 with delay. Whereas, in terms of Regulation 13.1(3) of Notification No. FEMA 20R/2017-RB dated November 07, 2017 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.

8. The applicant was given an opportunity for personal hearing vide our letter No.FE.CG/FID/58/03.01.587/2019-20 dated July 09, 2019 for further submission in person and/or producing documents, if any, in support of the application. Sh. Raja Mehra and Sh. Vijay Mehra, Directors of the company and Sh. Kanwaljit Singh, Practising Company



secretary appeared for the personal hearing on July 22, 2019. During the personal hearing, the representatives of the applicant admitted the contravention committed by them for which they have sought compounding. The representative submitted that the contraventions were due to lack of awareness of the procedural requirements and were not intentional and have requested for taking a lenient view in the matter. The application is, therefore, being considered on the basis of the averments made in the application, and documents produced.

9. It has been declared in the compounding application dated April 29, 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 undertaking furnished with the compounding application that the applicant is under investigation of Directorate of Enforcement for proceedings under FEMA. Accordingly, RBI vide letter dated 07.05.2019 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to rule 8(2) of the compounding Rules to compounding of the contraventions sought to be compounded by the applicant. A reminder dated 19.06.2019 was issued to DoE in this regard giving another 7 days to respond. DoE vide its letter dated 08.07.2019 has confirmed its 'no objection' to compounding by RBI in the matter. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

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

- a. **Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in reporting of receipt of foreign inward remittance towards subscription of shares as detailed in paragraph 3 above. The contravention relates to an amount of **Rs. 22,50,000.00/- with the delay ranging of 408 days.**
- b. **Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The contravention relates to an amount of **Rs. 22,50,000.00/- with the delay ranging from 547 days to 636 days.**
- c. **Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in receiving of the inflow amount beyond stipulated days as detailed in paragraph 5 above. The contravention relates to an amount of ₹



**45,000.00 /- with a delay of 1 day.**

- d. **Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in refunding the excess amount beyond the stipulated time as detailed in paragraph 6 above. The contravention relates to an amount of ₹ **13,50,000.00/- with a delay of 63 days.**
- e. **Regulation 13.1(3) of Notification No. FEMA 20(R)/ 2017- RB dated November 07, 2017** due to delay in Filing of FLA return for FY 2017-18 as detailed in paragraph 7 above.

11. 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 amount of penalty of **Rs. 92,710.00 (Rs. Ninety Two Thousand Seven Hundred and Ten only)** will meet the ends of justice.

12. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of Paragraph 9(1) (A), Para 9(1) (B), Para 8 and Paragraph 9(2) of Schedule 1 respectively to the 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (v) delay in filing of FLA returns in terms of regulation 13.1(3) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB) on the facts discussed above, on payment of an amount of **Rs. 92,710.00 (Rs. Ninety Two Thousand Seven Hundred and Ten only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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.



FED, CEFA  
Compounding of Contravention under FEMA, 1999  
M/s Agmehra Private limited [CA No. CHA 41 /2019]

The application is disposed of accordingly.

Dated: the 5<sup>th</sup> day of August 2019.

Sd/-  
Vinod Kumar  
Deputy General Manager