



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

R.K. Moolchandani
Chief General Manager

Date: November 05, 2019
CA No 4939/ 2019

In the matter of

H F Metal Art Private Limited
E – 67, Gems & Jewellery Zone, EPIP, Sitapura
Jaipur - 302022

(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 May 09, 2019 (received in the Reserve Bank on May 10, 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) failure to export the goods within a period of one year from the date of receipt of advance and (ii) failure to realize export proceeds within stipulated time period which are in violation of Regulation 16 and Regulation 9 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 FEMA 23) and Regulation 9 of FEMA Notification 23R/2015-RB dated January 12, 2016 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2015, (hereinafter referred to as FEMA 23R).

2. The relevant facts are as under:

The applicant company was incorporated on October 06, 2005 under the Companies Act, 1956. It is engaged in the business of minting and supply of precious metal coins and bars, as well as high quality medals, gifts and promotional items in non-precious metals. The company received certain export advances during January 2008 to July 2011 amounting to Rs 6,30,79,984/-, but was unable to make exports within the prescribed time limit. However, the company has adjusted the export advances against exports made during the period from August 2013 to June 2014 and as on date no advances are outstanding. The failure to export goods within one year from the date of receipt of advance payment resulted in contravention of Regulation 16 of FEMA 23.

Also, the company could not realize export proceeds against certain exports amounting to Rs 10,58,50,346/-, within the prescribed time period during 2014-2018. This was a contravention of Regulation 9 of FEMA 23 (for transactions upto January 11, 2016 and Regulation 9 of FEMA 23R, (for transactions post January 11, 2016).

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/1821/15.20.67/2019-20 dated October 10, 2019 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing was held on October 22, 2019 during which the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter.

4. It has been declared in the compounding application, that the particulars given by the applicant company 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 letter reference No. FED.CO.CEFA/6924/15.20.67/2018-19 dated 24.05.2019 had sought No Objection Certificate (NOC) from DoE to proceed with the compounding process. DoE, vide its letter ref. No. T-4/3/FEMA/JPZO/2017-ADE/1492, dated 21.06.2019, 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 Regulation 16 and Regulation 9 of Notification No.FEMA.23/2000-RB and Regulation 9 of Notification No.FEMA 23R/2015-RB.

The amount of contravention is Rs 16,89,30,330/- (Rs 6,30,79,984 with respect to Regulation 16 of FEMA 23+ Rs 10,58,50,346/- with respect to Regulation 9 of FEMA 23/23R)

Period of contravention ranges from 11 months to 4.6 years approximately for Regulation 16 of FEMA 23 and for Regulation 9 of FEMA23/23R it ranges from one day to seven months approximately.

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.10,32,998/- (Rupees Ten lakhs thirty two thousand nine hundred and ninety eight 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 16 and Regulation 9 of Notification No.FEMA.23/2000-RB and Regulation 9 of Notification No.FEMA 23R/2015-RB, on payment of a sum of Rs.10,32,998/- (Rupees Ten lakhs thirty two thousand nine hundred and ninety eight 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 5th day of November, 2019

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