



In the
Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Ms. M Ramakumari
Deputy General Manager

Date: February 27, 2019
C.A. BGL 358/2019

In the matter of

M/s Saboo Hesse Wood Coatings Private Limited
18, Graphite Road
NCPR Industrial Layout
Mahadevapura
Bengaluru - 560048
(Applicant)

In exercise of the powers under Section 15 (1) of the Foreign Exchange Management Act, 1999, and the Regulations/Rules/Notifications/Orders framed there under, I pass the following

Order

The applicant has filed a compounding application dated January 03, 2019, received at the office of Reserve Bank of India, Bengaluru, on January 04, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA) and the Regulations issued there under. The contraventions sought to be compounded are, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A) and 9(1)(B), respectively, of Schedule I 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 03, 2000, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).



2. The relevant facts of the case are as follows: The applicant, M/s Saboo Hesse Wood Coatings Private Limited, was originally incorporated as M/s Hesse-Diamond Wood Coatings Private Limited, on January 02, 2009, under the Companies Act, 1956, as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. Subsequently, name of the company was changed as M/s Saboo Hesse Wood Coatings Private Limited, with effect from May 08, 2013, under the Companies Act, 1956, as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is manufacturing of paints, varnishes, and enamels or lacquers. The applicant had received funds towards share application money from the foreign investors, namely, M/s. Hesse Shares GMBH, Germany and M/s. Swades Capital LLC, USA, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	13-05-2009	3,00,000.00	11-08-2009
2	02-07-2009	19,86,900.00	30-07-2009
3	09-10-2009	6,80,850.00	20-10-2009
4	03-11-2009	34,020.00	15-01-2010
5	19-11-2009	33,96,360.00	09-12-2009
6	02-03-2010	18,45,000.00	19-03-2010
7	25-06-2010	18,17,235.00	19-07-2010
8	29-11-2010	7,03,200.00	08-02-2011
9	11-03-2013	19,25,000.00	18-04-2013
10	19-10-2013	5,25,000.00	22-10-2013
11	15-10-2014	19,98,360.00	30-10-2014
12	17-11-2014	3,16,039.00	11-12-2014
	Total	1,55,27,964.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from eight days to two months, beyond the stipulated time of 30 days in respect of the remittances indicated at serial



numbers 1,4,8 and 9, in the Table 1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I 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.

3. The company had allotted shares and filed Form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	03-08-2009	30,000	3,00,000.00	24-09-2009
2	29-09-2009	1,98,690	19,86,900.00	23-10-2009
3	16-12-2009	3,71,306	37,13,060.00	15-01-2010
4	13-04-2011	70,320	7,03,200.00	01-07-2011
5	05-09-2013	19,25,000	19,25,000.00	05-10-2013
6	07-11-2013	5,25,000	5,25,000.00	05-12-2013
7	24-11-2014	19,60,000	19,60,000.00	22-12-2014
8	24-11-2014	2,99,600	2,99,600.00	22-12-2014
	Total	53,79,916	114,12,760.00	

The applicant filed Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from twenty two days to one month and eighteen days, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial numbers 1 and 4, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA. 20/2000-RB dated May 3, 2000, 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 persons resident outside India.



4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 3097/22.07.343/2018-19 dated February 21, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Natesh K, Company Secretary, Mr. B.S. Kesavaram, Managing Director, who appeared for the personal hearing on February 27, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, 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.

5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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, due to delay in reporting of foreign inward remittances, received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹29,62,220.00**, and the period of delay ranges from eight days to two months; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, 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 3 above. The contravention relates to an amount of **₹10,03,200.00**, and the period of delay ranges from twenty two days to one month and eighteen days.

6. It has been declared in the compounding application dated January 03, 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 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.

7. 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 **₹20,960.00 (Rupees Twenty Thousand Nine Hundred and Sixty only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹20,960.00 (Rupees Twenty Thousand Nine Hundred and Sixty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru, 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, the Twenty Seventh day of February, 2019.

Sd/-

(M Ramakumari)
Deputy General Manager