



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

K Ravi
Deputy General Manager

Date: October 23, 2019
C.A.934/2019

In the matter of

M/s. SHS Enterprises Pvt Ltd.
SF No.76/1/4, Near M N Printers
Noombal, Velappanchavadi
Chennai – 600 077

(Applicant)

In exercise of the powers 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 July 15, 2019 (received at Reserve Bank on July 15, 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 of



inflow of funds received from a person resident outside India for allotment of shares and (ii) delay in refund of inward remittance received in terms of Paragraph 9 (1) A and Paragraph 8 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 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: The applicant company was incorporated on April 26, 2017 under the provisions of the Companies Act, 2013 (Registration No.U55100TN2017PTC116273) and is engaged in the business of wholesale of food, beverages, tobacco and retail sale of food in specialized stores. The applicant received foreign inward remittance from Mr. Song Yea Sung, Republic of Korea towards subscription to shares and reported the same to the Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance ₹	Date of receipt	Contravention exists till
1	10,16,390.24	27.06.2017	31.08.2018

The applicant did not report the receipt of remittance to the Reserve Bank and the contravention continued till 31.08.2018 for a period of one year one month four days approximately beyond the stipulated time of 30 days. 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 failed to allot shares against the above remittance and refunded the entire amount on September 12, 2019 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of Refund
1	27.06.2017	10,16,390.24	12.09.2019

The company refunded the amount as indicated above with delay of one year eight months 19 days approximately beyond the stipulated time of 180 days with prior approval



of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

4. The applicant was advised about the contraventions vide memorandum dated July 08, 2019. The applicant has filed a compounding application dated July 15, 2019 wherein 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 been declared in the declaration 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/him/her thereafter. 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated October 21, 2019 has opted out of personal hearing scheduled on October 23, 2019. 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 receipt of inward remittance towards subscription of shares as



detailed in paragraph 2 above. The contravention relates to an amount of ₹10,16,390.24 with duration of contravention being one year one month four days approximately;

- (b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with AP (Dir Series) Circular No.20 dated December 14, 2007 due to delay in refund of inward remittance received with prior approval of Reserve Bank as detailed in paragraph 3 above. The contravention relates to an amount of ₹10,16,390.24 with the duration of contravention being one year eight months 19 days approximately.

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 **₹63,261/-** (Rupees sixty three thousand two hundred and sixty one only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 8 of Schedule I to Notification No. 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 **₹ 63,261/-** (Rupees sixty three thousand two hundred and sixty one only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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.



M/s. SHS Enterprises Pvt Ltd.–C.A.934/2019

The application is disposed accordingly.

Dated this twenty third day of October 2019.

Sd/-

K Ravi

Deputy General Manager