



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: September 26, 2019
CA No 4923/ 2019

In the matter of

Suncity Sheets Private Limited
E - 420, MIA 2nd phase, Basni,
Jodhpur, Rajasthan – 342 005

(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 March 26, 2019 (received in the Reserve Bank on May 02, 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 ship goods within a period of one year from the date of receipt of advance payment and (ii) refund of unutilized portion of advance payment after expiry of one year without the permission of Reserve Bank of India pertaining to Regulation 16 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 Notification No. FEMA 23/2000-RB).

2. The relevant facts are as under:

The applicant company was incorporated under the Companies Act, 1956 as M/s Suncity Sheets Private Limited and is engaged in the business of exporting stainless steel coil, sheets, circles and tubes. During the year 2011, a total advance payment of USD 315028.57 was received from one of its overseas buyers (a company incorporated in UAE) on different dates. The overseas buyer cancelled the order and as per the contract, USD 175027.89 was adjusted as cancellation charges and the remaining amount of USD 140000.68 was remitted to the overseas buyer after one year (in 2013) of receipt of advance payment without prior permission of RBI. Thus, the applicant had failed to ship the goods within a year of receiving the order and had refunded the remaining amount after one year without approval from RBI, which was in contravention of Regulation 16 of FEMA notification 23/2000- RB dated May 03, 2000.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/939/15.20.67/2019-20 dated August 19, 2019 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing was held on September 12, 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 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/6599/15.20.67/2018-19 dated 08.05.2019, had sought a No Objection Certificate (NOC) from DoE to proceed with the compounding process. DoE, vide its letter ref. No. RBI/SDE/WR/B-223/2019/1275 dated 24.07.2019, conveyed their no objection to compounding of the abovementioned contraventions.

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.

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.

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 Regulations 16 of Notification No.FEMA.23/2000-RB. The amount of contravention is Rs 1,41,44,329 and period of contravention is seven years and one month.

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. 1,56,082/- (Rupees One lakh fifty six thousand and eighty two 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, Regulations 16 of Notification No.FEMA.23/2000-RB, on payment of a sum of Rs.1,56,082/- (Rupees One lakh fifty six thousand and eighty two only) which shall be deposited by the



applicant with the 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 26th day of September , 2019

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