



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

Present

R Karthikeyan
Assistant General Manager

Date: October 30, 2019
C.A.933/2019

In the matter of

M/s. Akshayam Aquatech Pvt Ltd.,
No.5/5A, 1st floor, Valluvar Salai
Ramapuram
Chennai – 600 089

(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 04, 2019 (received at Reserve Bank on July 10, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in receipt of consideration in terms of Paragraph 2(2) of Schedule I to Foreign Exchange Management



M/s. Akshayam Aquatech Pvt Ltd -C.A.933/2019

(Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20R/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20R/2017-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on July 20, 2017 under the provisions of the Companies Act, 2013 (Registration No. U15549TN2017PTC117698) and is engaged in the business of wholesale of other basic/manufactured food stuffs n.e.c. The applicant received three foreign inward remittances of ₹10,00,000.00, ₹9,62,350.00 and ₹40,258.00 on 25.09.2018, 27.03.2019 and 13.05.2019 respectively from Mr. Arien Johannes Dirk Koudijs, Singapore towards subscription to shares. Against the above remittances, the company allotted 100000 shares each on 15.11.2018 and 27.03.2019 and filed the FC GPRs with Reserve Bank.

3. The company allotted 100000 shares of ₹10/- each against the remittance ₹9,62,350.00 received on 27.03.2019 with a shortfall of ₹37,650.00. The company later received this shortfall on 13.05.2019 as detailed below:

SI. No.	Date of receipt	Amount (₹)	Date of Allotment
1	13.05.2019	37,650.00	27.03.2019

The company allotted shares prior to the receipt of entire consideration and brought in the shortfall of ₹37,650.00 with a delay of one month 17 days approximately beyond the date of allotment of shares. Whereas in terms of paragraph 2(2) of Schedule I to Notification No. FEMA 20R/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within 60 days from the date of receipt of the consideration.

4. The applicant was advised about the contravention vide memorandum dated May 31, 2019. The applicant has filed a compounding application dated July 04, 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



M/s. Akshayam Aquatech Pvt Ltd -C.A.933/2019

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 contravention which is 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, in his application dated July 04, 2019 has expressed his inability to attend personal hearing and requested Reserve Bank to pass the order. 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 provision issued in terms of:

- a) Paragraph 2(2) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in receipt of consideration. The contravention relates to an amount of ₹37,650.00 with the duration of contravention being one month 17 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 contravention is to be compounded and I consider that an amount of ₹489/- (Rupees four hundred and eighty nine only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 2(2) of Schedule I to Notification No. FEMA 20R/2017-RB, by the applicant on



M/s. Akshayam Aquatech Pvt Ltd -C.A.933/2019

the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹489/-** (Rupees four hundred and eighty nine 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.

The application is disposed accordingly.

Dated this thirtieth day of October, 2019.

Sd/-

R Karthikeyan

Assistant General Manager