



In the

Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

H. Thangzaman
Chief General Manager

Date: March 20, 2019
C.A.097/2019

In the matter of

M/s Newby Teas Resources Pvt. Ltd.
D H Road, Bishnupur, Bhasa, 24 Parganas (South)
Pin Code-743503
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated January 2, 2019 (received at Reserve Bank on January 5, 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 is for delay in submission to the Reserve Bank of both Form ARF after receipt of inflow from a person resident outside India and Form FC-GPR after issue of shares to a person resident outside India beyond the



stipulated 30 days in terms of Paragraph 9(1)(A) and 9(1)(B) respectively 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 Newby Teas Resources Pvt. Ltd., was incorporated under Companies Act, 1956, on September 29, 2003 and is in the business of Blending, packaging and export of tea {NIC-2008:10971}. The company had received the foreign inward remittances towards subscription to equity shares from its foreign investors and reported the same with a delay beyond the stipulated period of 30 days, as given in Table 1 below:

Table 1: Details of inflow of foreign inward remittances

| S. No. | Name of Investor | Inflow (INR) | Date of inflow | Date of reporting of inflow to RBI | Delay beyond 30 days (Days) |
|--------|----------------------|--------------|----------------|------------------------------------|-----------------------------|
| 1 | Sethia London Ltd. | 8,925,000 | 20-Feb-04 | 7-Dec-16 | 4644 |
| 2 | Sethia London Ltd. | 8,925,000 | 5-Mar-04 | 7-Dec-16 | 4630 |
| 3 | Pashupati Securities | 9,000,000 | 29-Apr-04 | 7-Dec-16 | 4575 |
| 4 | Pashupati Securities | 1,150,000 | 4-May-04 | 7-Dec-16 | 4570 |
| 5 | Sethia London Ltd. | 8,924,990 | 23-Aug-04 | 7-Dec-16 | 4459 |
| 6 | Pashupati Securities | 5,075,000 | 15-Feb-05 | 7-Dec-16 | 4283 |
| 7 | Pashupati Securities | 2,900,000 | 19-May-05 | 7-Dec-16 | 4190 |
| 8 | Sethia London Ltd. | 5,100,000 | 19-May-05 | 7-Dec-16 | 4190 |
| 9 | Pashupati Securities | 25,180,000 | 14-Jul-11 | 25-Aug-11 | 12 |
| 10 | Pashupati Securities | 3,542,000 | 1-Aug-11 | 5-Sep-11 | 5 |
| 11 | Pashupati Securities | 1,277,393 | 5-Sep-11 | 13-Oct-11 | 8 |

All the aforementioned inward remittances have been reported to the Reserve Bank of India with a delay beyond the stipulated period of 30 days with a delay ranging from 5 days to 4644 days, leading to contravention of Para 9 (1) (A) of FEMA 20/2000-RB dated May 3, 2000.

3. The company allotted shares and refunded the excess share application money in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, the shares are to be allotted within 180 days of the receipt of inflow.



4. The applicant reported the allotment of shares (in form FC-GPR) to the Bank with a delay beyond the stipulated period of 30 days as detailed in Table 3:

Table 2: Allotment of shares and reporting of FCGPR

| S. No. | Amount for which shares have been issued (INR) | Date of allotment of shares | Date of reporting of allotment of shares to RBI | Delay beyond 30 days, if any (days) |
|--------|--|-----------------------------|---|-------------------------------------|
| 1 | 17,850,000.00 | 6-Sep-04 | 7-Dec-16 | 4445 |
| 2 | 10,150,000.00 | 6-Sep-04 | 7-Dec-16 | 4445 |
| 3 | 8,924,990.00 | 21-Feb-05 | 7-Dec-16 | 4277 |
| 4 | 5,075,000.00 | 21-Feb-05 | 7-Dec-16 | 4277 |
| 5 | 2,900,000.00 | 11-Jul-05 | 7-Dec-16 | 4137 |
| 6 | 5,100,000.00 | 11-Jul-05 | 7-Dec-16 | 4137 |

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.1370/06.01.002/2018-19 dated March 5, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Mr. S. K. Singh (Authorized Representative), appeared for personal hearing on March 19, 2019. The representative of the applicant admitted the contraventions as stated in para 2 and 4 of this Order.

6. It has been declared in the compounding application dated January 2, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her 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. 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.



6. I have given 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 provisions of paragraph 9(1)(A) and 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000RB. The contravention relates to an amount of INR 9,99,99,980.

7. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances which led to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of Rs. 21,20,875 (Rupees Twenty One Lakh Twenty Thousand Eight Hundred and Seventy Five only) will meet the end of justice.

8. Accordingly, I compound the admitted contravention viz. Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 of Notification No. FEMA 20(R) dated November 7, 2017 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount Rs. 21,20,875 (Rupees Twenty One Lakh Twenty Thousand Eight Hundred and Seventy Five only) which are to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

9. The application is disposed off accordingly.

Dated this Twentieth day of March, Two Thousand and Nineteen.

Sd/
(H. Thangzaman)
Chief General Manager