



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad - 500 004

Present

Shri. Subrata Das  
Regional Director (Andhra Pradesh and Telangana) and  
Chief General Manager (Hyderabad)

Date: July 19, 2019  
C.A. HYD 418

In the matter of

M/s. Al-Sami Agro Products Private Limited  
Plot Nos. E-16, 17 & 18, Industrial Estate  
Dowlaiswaram, Andhra Pradesh- 533 125

**(Applicant)**

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

**Order**

The applicant has filed the compounding application dated March 25, 2019 received by us on March 26, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards equity, (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India, (iii) delay in refund of un-allotted share application money and (iv) delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) in terms



of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8 and Paragraph 9(2) of Schedule 1 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 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB) and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as amended from time to time.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident applicant incorporated as Private Limited Applicant under the Companies Act, 1956 on January 17, 2009 (CIN: U01111AP2009PTC062536). The applicant is engaged in the activity of Raising of other animals, n.e.c.
- b) The applicant had received foreign inward remittances from single foreign investor as indicated below:

Sl No	Name of Remitter	Amount (INR)	Date of Receipt	Date of Reporting
1	Duan Hongli	1,98,22,379	22.07.2014	24.09.2014
2	Duan Hongli	61,04,740	13.08.2014	24.09.2014
3	Duan Hongli	72,83,853	14.08.2014	24.09.2014
4	Duan Hongli	76,25,800	19.08.2014	24.09.2014
5	Duan Hongli	75,66,510	19.08.2014	24.09.2014
6	Duan Hongli	74,92,634	12.09.2014	24.09.2014
7	Duan Hongli	45,30,951	12.09.2014	24.09.2014
8	Duan Hongli	61,37,478	30.09.2014	30.10.2014
9	Duan Hongli	1,82,91,768	10.10.2014	30.10.2014
10	Duan Hongli	1,37,03,893	19.03.2015	17.06.2015



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11	Duan Hongli	1,64,87,407	17.04.2015	17.06.2015
	<b>Total</b>	<b>11,50,47,413</b>		

The applicant reported receipt of remittances towards share capital amounting to ₹ 11,50,47,413/- to the Regional Office of Reserve Bank of India. Out of which remittances amounting to ₹ 7,85,94,582/- were reported with delays ranging from 5 days to 1 Month 29 Days approximately as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian applicant 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.

c) The applicant allotted equity shares and filed form FC-GPRs as indicated below:

SI No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting to AD or RBI
1	Duan Hongli	20.09.2014	21,58,102	6,04,26,856	27.04.2016
2		24.11.2014	8,72,473	2,44,29,244	01.10.2016
<b>Total</b>			<b>30,30,575</b>	<b>8,48,56,100</b>	

The applicant reported the form FCGPRs for the allotment of shares amounting to ₹ 8,48,56,100/- as indicated above, with delays ranging from 1 year 6 months 7 days to 1 year 9 Months 7 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian applicant issuing shares in accordance with these Regulations has to submit to



Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

d) The applicant has neither allotted shares nor refunded the share application money within 180 days as indicated below:

Sl No	Name of Remitter	Un-allotted share application money (INR)	Date of Receipt	Date of seeking approval for refund from RBI
1	Duan Hongli	1,37,03,893	19.03.2015	29.03.2019
2		1,64,87,407	17.04.2015	
	<b>Total</b>	<b>3,01,91,300</b>		

The applicant has neither refunded nor allotted shares for the remittances amounting to ₹ 3,01,91,300/- within 180 days from the date of receipt of share application money and the refund was made with delays ranging from 3 years 5 months 15 days to 3 years 6 months 14 days approximately. Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Govt. of India with effect from November 29, 2007.



e) The applicant has filed FLA Return (Foreign liabilities and Assets) with delays ranging from 8 months 27 days to 3 years 8 months 27 days approximately as shown below:

SI No	Particulars	Financial year	Due date of filing the return	Date of actual filing
1	FLA Return	2014-15	15.07.2015	10.04.2019
2	FLA Return	2015-16	15.07.2016	10.04.2019
3	FLA Return	2016-17	15.07.2017	10.04.2019
4	FLA Return	2017-18	15.07.2018	10.04.2019

Whereas in terms of Para 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as amended from time to time, "All Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time].

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/ 0174 /14.66.003/2019-20 dated July 18, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide e-mail dated July 19, 2019 stated that they are foregoing appearing for the personal hearing and requested that the compounding application may be disposed of on the basis of merits in terms of the facts/submission made therein along with the compounding application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.



4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares and the contravention relates to an amount of ₹ **7,85,94,582/-** with delays ranging from 5 days to 1 month 29 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ **8,48,56,100/-** with delays ranging from 1 year 6 months 7 days to 1 year 9 months 7 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of un-allotted share application money to the non-resident investor beyond the stipulated period of 180 days from the date of receipt of remittance and the contravention relates to an amount of ₹ **3,01,91,300/-** with delays ranging from 3 years 5 months 15 days to 3 years 6 months 14 days approximately.

(d) Paragraph 9(2) of Schedule 1 to Notification No. FEMA. 20/2000-RB and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB for delay in filing of Annual Return on Foreign Liabilities and Assets to Reserve Bank of India for four years viz 2014-15 to 2017-18, with delays ranging from 8 months 27 days to 3 years 8 months 27 days approximately.

5. It has been declared in the compounding application dated March 25, 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 declaration dated April 12, 2019 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 including the NCLT, if the said declarations are subsequently discovered to be false and/or incorrect.

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. 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 **₹ 5,05,411/- (Rupees Five Lakh Five Thousand Four Hundred Eleven Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8 and Paragraph 9(2) of Schedule 1 to Notification No. FEMA-20/2000-RB and Regulation 13.1(3) of Schedule 1 to Notification No. FEMA-20(R)/2017-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount **₹ 5,05,411/- (Rupees Five Lakh Five Thousand Four Hundred Eleven Only)** de which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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.



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The application is disposed accordingly.

Dated this 19<sup>th</sup> day of July 2019

Sd/-

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and

Chief General Manager (Hyderabad)