



In the

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

Present

Suman Ray
Chief General Manager

Date: May 02, 2019
C.A.871/2018

In the matter of

M/s. Arjun Pulp & Paper (India) Pvt Ltd.
(Formerly known as M/s. Vesuvio Papers Pvt Ltd.)
Survey No.23, 101, Thandalam Group
Vellanthangal village, Irungattukottai
Sriperumpudur
Kancheepuram -602 105

(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 December 24, 2018 (received at Reserve Bank on December 26, 2018) 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 (ii) delay in submission of Form FC-GPR to Reserve Bank on



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allotment of shares and (iii) delay in allotment of shares in terms of Paragraph 9(1)A, Paragraph 9(1)B 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 July 04, 2007 under the provisions of the Companies Act, 1956 (Registration No. U21020TN2007PTC064172) and is engaged in business of manufacture of other paper products. The applicant received foreign inward remittances from i) M/s Toga Invest AG, Switzerland and ii) M/s Arjun Global Holdings (Mauritius) Ltd., Mauritius towards subscription to equity shares and reported to Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance (₹)	Date of receipt	Reported to RBI on
1	2,87,79,243.00	09.01.2008	01.02.2008
2	3,72,00,000.00	30.01.2008	01.02.2008
3	4,12,35,527.00	22.02.2008	06.03.2008
4	16,60,073.00	10.06.2008	01.07.2008
5	16,86,163.00	02.01.2009	19.02.2009
6	2,34,54,475.00	27.07.2012	14.03.2013
7	2,52,74,483.00	21.11.2013	04.08.2014
8	3,32,42,000.00	19.08.2013	04.08.2014
9	83,49,750.00	21.01.2014	04.08.2014
10	80,90,000.00	15.05.2014	21.05.2014
11	1,18,94,250.00	04.09.2014	19.09.2014
12	81,17,500.00	09.07.2014	07.08.2014
13	62,50,250.00	08.01.2015	19.07.2017
14	61,90,512.00	25.02.2015	19.07.2017
15	60,17,637.00	15.12.2015	19.07.2017
16	100,96,875.00	08.03.2016	28.06.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from two months 21 days to two years five months 12 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. No.6 to 9 and 13 to 16. Whereas, in terms of paragraph 9 (1) A of Schedule I to



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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 applicant company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	2,87,792	100	287,79,200.00	01.06.2009	23.07.2009
2	3,72,000	100	3,72,00,000.00	01.06.2009	23.07.2009
3	4,12,355	100	4,12,35,500.00	01.06.2009	23.07.2009
4	16,601	100	16,60,100.00	01.06.2009	23.07.2009
5	16,862	100	16,86,200.00	01.06.2009.	23.07.2009
6	2,09,414	112	2,34,54,368.00	21.01.2013	14.03.2013
7	5,00,140	117	585,16,483.00	12.02.2014	04.08.2014
8	71,365	117	83,49,705.00	30.06.2014	04.08.2014
9	69,145	117	80,89,965.00	30.06.2014	26.03.2019
10	1,71,040	117	2,00,11,680.00	05.09.2014	19.07.2017
11	1,06,330	117	1,24,40,610.00	07.03.2015	19.07.2017
12	44,575	135	60,17,625.00	09.02.2016	19.07.2017
13	74,791	135	100,96,785.00	04.04.2016	19.07.2017

The applicant filed the Form FC-GPRs as indicated above with delay ranging from five days to four years seven months 26 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. No. 6 to 13. Whereas in terms of paragraph 9(1)B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The details of four inward remittances received by the company against which shares were allotted beyond the prescribed period are in the table below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment of shares
1	09.01.2008	2,87,79,243.00	01.06.2009
2	30.01.2008	3,72,00,000.00	01.06.2009



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3	22.02.2008	4,12,35,527.00	01.06.2009
4	10.06.2008	16,60,073.00	01.06.2009

The company allotted shares with delay ranging from five months 25 days to ten months 25 days approximately beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated November 02, 2018. The applicant has filed compounding application dated December 24, 2018 wherein it has been declared 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.

6. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 24, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on April 29, 2019 during which Smt. Shanti Balamurugan, CFO, represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in paragraphs 2 to 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of the



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averments made in the application as well as other documents and submissions made in this context by the applicant during the personal hearing.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. 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 due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 11,88,75,982.00 with duration of contravention ranging from two months 21 days to two years five months 12 days approximately;
- (b) Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of ₹14,69,77,221.00 with the duration of contravention ranging from five days to four years seven months 26 days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without RBI approval, as detailed in paragraph 4 above. The contravention relates to an amount of ₹10,88,74,843.00 with the duration of contravention ranging from five months 25 days to ten months 25 days approximately.

8. 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



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of **₹10,23,841/-** (Rupees Ten lakhs twenty three thousand eight hundred and forty one only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 of Schedule 1 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 **₹10,23,841/-** (Rupees Ten lakhs twenty three thousand eight hundred and forty 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.

The application is disposed accordingly.

Dated this second day of May, 2019.

Sd/-

Suman Ray

Chief General Manager