



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri R. K. Mahana
General Manager

Date: December 13, 2018

C.A. No. 792/2018

In the matter of

Eurocao Foods India Private Limited
G-57, Five Star Industrial Area
MIDC Butibori, Nagpur- 441110

(Applicant)

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

Order

1. The applicant has filed the compounding application dated August 28, 2018, (received at the Reserve Bank of India on August 30, 2018) 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) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India, in terms of paragraphs 9 (1) (A) and 9 (1) (B) respectively, of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000



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notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 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 company was incorporated on June 28, 2013, under the Companies Act, 1956 as Eurocao Foods India Private Limited. Its main activities are to carry on the business in the field of production, processing, dealing, sale, purchase, import, export & trade of all types of raw materials, ingredients & semi-finished products required for industries like bakery , ice cream including all types of food products and allied bye products capable of producing, cultivating, processing, reprocessing, preserving, reigning, packing, preparing and to manipulate, treat, market, import, improve,, produce, process, prepare, buy, sell, deal in and trade in such products like cakes, pastry, doughnuts, snacks items, biscuits, foods, beverages including agro products, organic and inorganic products, health foods, energy foods, jams, jellies, chocolates, pickles, cider, chutney, marmalades, mayonnaise, mustard, deserts, coffee, tea, flavors, condiments, pancakes, vinegar's, ketchup, sauces, juices, squashes, syrups, soups, powder (eatables), drinks, alcoholic and non-carbonated, gelatins, essence, ice creams, dairy products, meat, sausages, and other meat products, marine and sea food products, table delicate, fast food, frozen foods and other eatables, bakery products and confectionery items such as breads, biscuits, sweets, roti. Pizza, papad, cookies, cookies, warfers, lemon drops, chocolate, toffees, lozenges, tinned, canned, bottled products, milk cream, butter, butter scotch, ghee, cheese, condensed milk, milk powder, skimmed milk food, baby food, infant food, milk products and milk preparation, soya milk, milk products and preparation, soya bean based products, milk shakes, foods, cereal products, wheat lakes, poultry products, farm products, milk shakes, water ice products, yoghurt and beverages of every description in India and abroad.



3. The applicant received foreign inward remittance towards equity / compulsory convertible preference share/ compulsory convertible debentures and reported the same to the Reserve Bank of India as indicated in the table.

Sr. No.	Amount Received in INR	Date of receipt	Date of reporting	Delay
1	80,000.00	03-12-2014	09-02-2015	01M 07D
2	32,12,140.00	22-11-2013	11-01-2014	20D
3	28,21,300.00	03-12-2014	09-02-2015	01M 07D
4	28,96,012.00	11-01-2016	16-03-2016	01M 04D
5	75,57,250.00	16-04-2018	09-05-2018	No
Total	1,65,66,702.00			

The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 20 Days to 01 Month 07 Days, approximately, in respect of remittances listed at serial no. 1 to 4 above. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report foreign inward remittances 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

Sr. No.	No. of shares	FV in INR	Amount involved in INR	Date of allotment	Date of filing	Delay
1	8000	10	80,000.00	28-06-2013	01-08-2015	2Y 0M 4D
2	321214	10	32,12,140.00	30-04-2014	07-06-2014	8D
3	282130	10	28,21,300.00	16-02-2015	18-05-2015	2M 2D
4	289600	10	28,96,000.00	15-02-2016	17-03-2016	1D
5	755725	10	75,57,250.00	24-05-2018	11-08-2018	LSF paid
			1,65,66,690.0			



The applicant filed form FC-GPR as indicated at serial No. 1 to 4 above with a delay ranging from 01 Day to 02 Years 04 Days, approximately. Whereas, in terms of Paragraph 9 (1) (B) of Schedule 1 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.

5. The applicant was given an opportunity for personal hearing vide e-mail dated November 30, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on December 04, 2018, during which Shri Ashwin Agrawal, Director of the applicant company, Shri Praful Sanghani, Consultant and Shri Mahendra V Zaveri, Consultant, represented the applicant in the cabin of Shri R. K. Mahana, General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

6. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. 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 the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.90,09,425.00 (Rupees Ninety Lakh Nine Thousand Four Hundred Twenty-Five Only) and the delay ranges from 20 Days to 01 Month 07 Days, approximately.



(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.90,09,440.00 (Rupees Ninety Lakh Nine Thousand Four Hundred Forty Only) and the delay ranges from 01 Day to 02 Years 04 Days, approximately.

7. It has been declared in the compounding application dated August 28, 2018, 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 further been stated in the declaration dated August 28, 2018, 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's 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.

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 of Rs. 24,333.00 (Rupees Twenty Four Thousand Three Hundred and Thirty-Three only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1) (A) and 9(1) (B) of Schedule 1 to Notification



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No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 24,333.00 (Rupees Twenty Four Thousand Three Hundred and Thirty-Three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.

10. The above order is passed only in respect of contraventions of para 9 (1) (A) and 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: December 13, 2018.

Compounding Authority

Sd/-
(R. K. Mahana)
General Manager