



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 J.K. Pandey
Chief General Manager

March 18, 2019

C A No. MUM 820/2019

In the matter of

M/s Labotek Plastics Auxiliaries India Private Limited
Sr. No. 78/1, H No. 1575
NDA Road, Shivane,
Pune 411023

(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 December 06, 2018, received at the Reserve Bank on January 09, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are in respect of the following paras under 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 3, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB):



- a) Para 9 (1) (A): delay in reporting receipt of foreign inward remittance towards subscription to equity
- b) Para 9 (1) (B): delay in filing Form FC GPR to Reserve Bank after issue of shares to person resident outside India
- 2 Brief details of the company M/s Labotek Plastics Auxiliaries India Private Limited are as follows:

Date of Incorporation	March 20, 2014
Its main activities are:	Manufacture of machinery for working soft rubber or plastics or for the manufacture of products of these materials

- 3 The applicant received foreign inward remittances from non-resident investors towards equity / compulsorily convertible preference shares/ compulsorily convertible debentures and the company reported the same to the Reserve Bank on dates as indicated below.

Delay under 9(1)(A) &/or Para 8						
(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees						
S No	Date of inward remittance	Amount received (in INR)	Date of reporting to RBI	Para 9 (1) (A) delay	Date of allotment/ refund	Para 8 delay
1	02/04/14	4,499,300.00	21/05/14	0Y 0M 18D	13/08/14	0
2	02/04/14	499,300.00	21/05/14	0Y 0M 18D	13/08/14	0
3	07/07/14	1,350.00	02/08/14	0	13/08/14	0
4	29/12/14	5,231,800.00	16/01/15	0	26/02/15	0
5	13/05/15	9,597,750.00	28/07/15	0Y 1M 14D	01/07/15	0
6	04/06/15	567,000.00	28/07/15	0Y 0M 23D	01/07/15	0
7	31/05/16	8,992,150.00	29/05/18	1Y 10M 28D	28/07/16	0
8	01/06/16	8,992,150.00	29/05/18	1Y 10M 27D	28/07/16	0
9	30/06/16	2,014,650.00	29/05/18	1Y 9M 29D	28/07/16	0
10	11/07/16	4,650.00	06/07/18	1Y 10M 25D	28/07/16	0
11	25/10/17	11,066,000.00	23/11/17	0	07/12/17	0
	TOTAL	51,466,100.00				



The applicant reported receipt of remittances to the Reserve Bank of India on dates indicated above with a delay ranging from 0Y 0M 18D to 1Y 10M 28D. Further, the applicant company delayed in reporting in 8 out of 11 total remittances beyond the stipulated time of 30 days. 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 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-GPRs as indicated below:

Contravention under Para 9(1)(B)						
(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees and FV stands for Face Value)						
Sno / Isf	Date of allotment	Number of shares	FV+ premium (in INR)	Amount (FV*no of shares) (in INR)	Date of reporting	Para 9 (1) (B) delay
1	13/08/14	500000	10	5,000,000.00	13/09/14	0
2	26/02/15	500000	10	5,000,000.00	15/05/15	0Y 1M 19D
3	01/07/15	1000000	10	10,000,000.00	02/09/15	0Y 1M 1D
4	28/07/16	2000000	10	20,000,000.00	11/07/18	1Y 10M 13D
LSF Paid	07/12/17	824590	13.42	11,065,997.80	12/07/18	LSF Paid
TOTAL				51,065,998.00		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 0Y 1M 1D to 1Y 10M 13D. 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 RBI a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to Non Resident. In case of the allotment/s amounting to Rs. 11,065,998 (Rupees One Crore Ten Lakh Sixty Five Thousand Nine Hundred Ninety Eight and Zero Paise Only), indicated in the above table as "LSF Paid", they were also reported with a delay. In terms of Regulation 13.2 of FEMA 20R/2017-RB dated November 07, 2017, the person/entity responsible for filing the reports stipulated in Regulation 13.1 shall be liable for payment of late submission fee, as may be decided by the Reserve Bank, in consultation with the Central Government, for any delays in reporting. Since the applicant has already deposited the LSF amount, this delay has not been taken into consideration for computing the amount for compounding the contraventions.



- 5** The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated February 22, 2019. The applicant applied for waiver of personal hearing vide e-mail dated February 22, 2019. The applicant, in the compounding application, had admitted the contraventions as stated above for which compounding has been sought. It had been submitted that the contraventions were not wilful and were unintentional. 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 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 remittance towards subscription of shares as detailed above. The contravention relates to total amount of Rs.35,166,950 (Rupees Three Crore Fifty One Lakh Sixty Six Thousand Nine Hundred Fifty and Zero Paise Only) and with a delay ranging from minimum 0Y 0M 18D to maximum 1Y 10M 28D 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 after issue of shares to persons resident outside India and the contravention relates to total amount of Rs.35,000,000 (Rupees Three Crore Fifty Lakh and Zero Paise Only) and with a delay ranging from minimum 0Y 1M 1D to maximum 1Y 10M 13D approximately.
- 7** It has been declared in the compounding application dated December 06, 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 also been declared in a declaration attached to 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.



- 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.153,417 (Rupees One Lakh Fifty Three Thousand Four Hundred Seventeen and Zero Paise Only) will meet the ends of justice.
- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (A) and Para 9 (1) (B) 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 Rs.153,417 (Rupees One Lakh Fifty Three Thousand Four Hundred Seventeen and Zero Paise 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 Para 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.
- 11 The application is disposed of accordingly.
Dated: March 18, 2019

Compounding Authority

(J.K. Pandey)
Chief General Manager