



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: March 29, 2019
C.A. HYD 361

In the matter of
M/s Prathista Industries Limited
Sy.No: 273 -274, S.Lingotam,
Choutuppal, Yadadri, Bhongir ,
Nalgonda, Telangana - 508252

(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 thereunder, I pass the following

Order

The applicant has filed the compounding application dated November 27, 2018 received on November 30, 2018 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is allotment of shares to foreign investors before receipt of inward remittances in terms of Paragraph 2(2) of Schedule 1 to Foreign Exchange Management (Transfer or Issue



Compounding of contraventions under FEMA 1999
M/s Prathista Industries Limited
CA No. HYD 361

of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA.20R/2017-RB dated November 07, 2017, as amended from time to time (hereinafter referred to as Notification No. FEMA 20R/2017-RB).

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

- a) The applicant is a resident company incorporated as Public Limited Company under the Companies Act, 1956 on 23.09.1996 (CIN: U29150TG1996PLC025278). The company is engaged in the business of manufacturing flour mixes and prepared blended flour and dough for bread, cakes, biscuits.
- b) The applicant reported receipt of remittances received towards share subscription amounting to ₹ **40,87,26,567/-** to the Regional Office of Reserve Bank of India out of which one remittance amounting to ₹**15,29,29,102/-** was reported with a delay of 1 day approximately.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Nutek Food Science LLC	152929102	22.05.2018	*22.06.2018
2	Cain Food Industries INC	169922961	22.05.2018	20.06.2018
3	Nutek Food Science LLC	51521565	10.07.2018	27.07.2018
4	Cain Food Industries INC	34352939	11.07.2018	27.07.2018
5	Nutek Food Science LLC	13950	20.03.2019	@
6	Cain Food Industries INC	6805	20.03.2019	@
	Total	40,87,26,567		



Compounding of contraventions under FEMA 1999
M/s Prathista Industries Limited
CA No. HYD 361

***As remittance was received after November 7, 2017, late Submission Fee of ₹19116/- was paid by the company.**

@As the remittance was received after September 1, 2018, reporting is not required.

c) The applicant filed form FCGPRs for the allotment of shares amounting to ₹40,87,39,113.10 as indicated below out of which allotment amounting to ₹32,28,56,242.40 was reported with a delay of 1 day approximately.

SI No	Name of the investor	Date of allotment of shares	Number of shares/CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Nutek Food Science LLC	22.05.2018	10 Equity	3792.70	*22.06.2018
			403217 CCPS	152928112	
2	Cain Food Industries INC	22.05.2018	10 Equity	3792.70	*22.06.2018
			448020 CCPS	169920545	
3	Nutek Food Science LLC	07.07.2018	134409 CCPS	51529722.40	01.08.2018
4	Cain Food Industries INC	07.07.2018	89606 CCPS	34353148.30	01.08.2018
	Total			40,87,39,113.10	

***As the allotments were made after November 7, 2017, Late Submission Fee of ₹40,357/- was paid by the company.**

d) The company had allotted shares for the amount of ₹40,87,39,113.10 as detailed below , out of which remittances of ₹8,58,87,050.09 were received after allotment of shares, with delays ranging from 3 days to 9 months 25 days approximately.



Compounding of contraventions under FEMA 1999
M/s Prathista Industries Limited
CA No. HYD 361

S.No	Name of investor	Date of allotment	Amount for which shares allotted (INR)	Date of receipt of remittance	Amount of remittance received
1	Nutek Food Science LLC	22/05/2018	152931904.29	22/05/2018	152929102
				20/03/2019	2802.29
2	Cain Food Industries INC	22/05/2018	169924338.1	22/05/2018	169922961
				20/03/2019	1377.1
3	Nutek Food Science LLC	07/07/2018	51529722.42	10/07/2018	51521565
				20/03/2019	8157.42
4	Cain Food Industries INC	07/07/2018	34353148.28	11/07/2018	34352939
				20/03/2019	209.28
	Total				40,87,39,113.1

Whereas in terms of Paragraph 2(2) of Schedule 1 to Notification no. FEMA 20R/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2052/14.66.003/2018-19 dated March 28, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on March 29, 2019 during which the authorized representatives of the company Shri J. Balaswamy, Deputy Manager,



Compounding of contraventions under FEMA 1999
M/s Prathista Industries Limited
CA No. HYD 361

Accounts of the company along with Shri Ch. Satya Dinakar, Chartered Accountant admitted the contravention for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was on account of administrative lapses. In view of the above, the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

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 2(2) of Schedule 1 to Notification no. FEMA 20R/2017-RB for delay in receipt of inward remittances after allotment of shares to foreign investors and the contravention relates to an amount of **₹8,58,87,050.09** and the period of contravention ranges from 3 days to 9 months 25 days approximately.

5. It has been declared in the compounding application dated November 27, 2018 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 November 27, 2018 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 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.



Compounding of contraventions under FEMA 1999
M/s Prathista Industries Limited
CA No. HYD 361

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 **₹4,79,435 /-(Rupees Four Lakhs Seventy Nine Thousand Four Hundred and Thirty Five Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention, namely, the contravention of Paragraph 2(2) of Schedule 1 to Notification no. FEMA 20R/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 of **₹4,79,435/ - (Rupees Four Lakhs Seventy Nine Thousand Four Hundred and Thirty Five Only)** 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.

The application is disposed accordingly.

Dated this 29th day of March 2019

(Sd/-)

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)