



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

S.Arumugam
Assistant General Manager

Date: December 09, 2019
CA No 4990 / 2019

In the matter of

McCann-Erickson (India) Pvt.Ltd
8, Balaji Estate, Guru Ravi das Marg, Kalkaji
New Delhi 110019
(Applicant)

In exercise of the powers conferred under section 15 (1) 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 application dated July 25, 2019 (received at the Reserve Bank of India on July 29, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is disinvestment without approval from the Reserve Bank of India. The above amounts to the contravention of Regulation 16 of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000



notified vide Notification No. FEMA 19/RB-2000 dated May 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 19/RB-2000).

2. The relevant facts are as under: The applicant company, McCann-Erickson (India) Private Limited was incorporated as Tara Sinha McCann-Erickson Private Limited on May 18, 1985 (CIN No.UU65910DL1985PTC020969) under Companies Act 1956. Later, the name of the company was changed to McCann-Erickson (India) Private Limited on July 20, 1995. It is registered with Registrar of Companies, N.C.T. of Delhi and Haryana and is involved in the business of advertising services. The applicant Company had invested NPR 800,000 (Rs 5,00,000) on September 25, 1998 towards investment in an overseas Wholly Owned Subsidiary (WOS) Viz., Maccann Erickson Nepal (Pvt) Ltd in Nepal. The applicant Company through a board resolution dated August 11, 2003 decided to liquidate the WOS and had stopped operations of the WOS since the date of board resolution and the company was subsequently liquidated in 2008. As the Company had started the liquidation process in August 2003 under automatic route, when it was not permitted under automatic route, the disinvestment transaction is in contravention of Regulation 16 of Notification No. FEMA 19/RB-2000. The disinvestment transaction was subsequently taken on record by the Reserve Bank of India on February 18, 2019.

3. As per Regulation 16 of Notification No. FEMA 19/RB-2000 "Save as otherwise provided in the Act or rules or regulations made or directions issued thereunder or with the permission of the Reserve Bank, no Indian Party shall transfer by way of sale to any person whether resident in India or outside India, any share or security held by him in a Joint Venture or Wholly Owned Subsidiary outside India."

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2629/15.20.67/2019-20 dated November 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on December 05, 2019 during which Shri Vinay Karekar, AVP-Finance & Commercial, McCann Erickson (India) Ltd represented the applicant company. The representative, of the applicant



submitted that the applicant had inadvertently failed to comply with the FEMA regulations and was unintentional. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 16 of Notification No.FEMA.19/2004-RB. The amount of contravention is Rs.5, 00,000/- and period of contravention is fifteen years and six months approximately.

6. It has been declared in the compounding application dated July 25, 2019, that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. The applicant had declared that they are not under any enquiry/investigation/adjudication by any agency on the date of application. Accordingly, the above contravention which is 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 and if the said declarations are subsequently discovered to be false and/or incorrect.

7. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs 53,750/ - (Rupees Fifty Three Thousand Seven Hundred and Fifty only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 16 of Notification No.FEMA.19/RB-2000, as amended from time to time, on payment of a sum of Rs.53,750/- (Rupees Fifty



Three Thousand Seven Hundred and Fifty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed accordingly.

Dated this the 9th of December, 2019

Sd/-
(S Arumugam)
Assistant General Manager