



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi - 110001

Present
V.G. Sekar
Chief General Manager
Date: August 16, 2019
CA No. NDL 413/2019

In the matter of
Compact India Private Limited
Plot No. 258 & 267, Sector 6, IMT Manesar, Gurugram, Haryana-122051
(Applicant)

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

ORDER

The applicant has filed the compounding application dated March 20, 2019 (received at Reserve Bank of India, New Delhi on March 26, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittances received for issue of shares, (ii) delay in filing form FC-GPR after issue of shares, and (iii) delay in issue of shares beyond 180 days from the date of receipt of inward remittances, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 respectively of 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company, incorporated on May 30, 2008, is engaged in the business of manufacture and export of ready to use supplementary and therapeutic food product made with peanuts (edible nuts).

(b) The applicant had reported receipt of foreign inward remittance on twenty five occasions from June 2008 to February 2018. On eighteen occasions, the applicant had reported the remittances received from its foreign investors viz. M/s GC Rieber Compact A/s (formerly known as Compact A/s), Denmark and M/s The Investment Fund for Developing Countries (formerly known as The Industrialisation Fund for Developing Countries), Denmark with delay ranging from 4 days to 2 years, 8 months and 8 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of Receipt	Amount (₹)	Date of Reporting
1	24.06.2008	75,00,000.00	01.04.2011
2	18.08.2008	74,32,958.39	01.04.2011
3	26.09.2008	74,729.16	01.04.2011
4	26.09.2008	48,52,942.40	01.04.2011
5	17.10.2008	1,57,64,916.17	01.04.2011
6	12.12.2008	1,18,00,000.00	01.04.2011
7	23.12.2008	47,95,083.83	01.04.2011
8	05.03.2009	68,89,370.00	01.04.2011
9	06.04.2009	51,40,000.00	01.04.2011
10	20.04.2010	1,00,50,000.00	01.04.2011
11	23.06.2010	70,00,000.00	01.04.2011
12	06.07.2010	33,50,000.00	01.04.2011
13	17.07.2010	20,00,000.00	01.04.2011
14	14.07.2015	100,00,000.00	16.05.2016
15	16.08.2016	3,58,00,000.00	02.12.2016
16	02.02.2017	13,82,66,730.00	08.03.2017
17	09.02.2017	8,80,00,000.00	24.03.2017
18	17.10.2017	49,33,270.00	04.12.2017
	Total	36,36,49,999.95	

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time



along with documents prescribed therein. Further, on two other occasions the delays were in contravention of the provisions of Regulation 13.1(1) of FEMA 20(R)/2017-RB, as then applicable, and the applicant has paid Late Submission Fee (LSF) for the said contraventions as required in terms of Regulation 13.2 of FEMA 20(R)/2017-RB.

(c) The applicant had reported the allotment of shares/ convertible debentures on fourteen occasions from August 2009 to February 2018. On seven occasions, the applicant had reported the allotment of shares/ convertible debentures to its foreign investors viz. M/s GC Rieber Compact A/s and M/s The Investment Fund for Developing Countries with delay ranging from 1 month and 22 days to 1 year, 4 months and 6 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of Issue	Amount (₹)	Date of Reporting
1	05.08.2009	6,41,50,000.00	10.01.2011
2	25.08.2010	2,25,00,000.00	10.01.2011
3	06.06.2013	2,20,00,000.00	03.10.2013
4	04.09.2015	1,00,00,000.00	06.07.2016
5	12.09.2016	3,58,00,000.00	26.12.2016
6	14.02.2017	8,80,00,000.00	29.06.2017
7	14.02.2017	13,82,66,730.00	08.05.2017
	Total	38,07,16,730.00	

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein. Further, on two other occasions the delays were in contravention of the provisions of Regulation 13.1(2) of FEMA 20(R)/2017-RB, as then applicable, and the applicant has paid Late Submission Fee (LSF) for the said contraventions as required in terms of Regulation 13.2 of FEMA 20(R)/2017-RB.

(d) The applicant had delayed in issuance of shares beyond 180 days from the date of receipt of inward remittances received on eight occasions, as detailed below, with delay ranging from 1 month and 15 days to 11 months and 24 days beyond the prescribed period, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.



Sl. No.	Date of Receipt	Amount (₹)	Date of Issue
1	24.06.2008	75,00,000.00	05.08.2009
2	18.08.2008	74,32,958.39	05.08.2009
3	26.09.2008	74,729.16	05.08.2009
4	26.09.2008	48,52,942.40	05.08.2009
5	17.10.2008	1,57,64,916.17	05.08.2009
6	12.12.2008	1,18,00,000.00	05.08.2009
7	23.12.2008	47,95,083.83	05.08.2009
8	05.03.2009	1,00,000.00	25.08.2010
	Total	5,23,20,629.95	

Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, a company in India issuing shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by inward remittance through normal banking channels, or by debit to NRE/ FCNR account of the person concerned maintained with an authorised dealer/ authorised bank. Provided that if the shares or convertible debentures are not issued within 180 days from the date of receipt of the inward remittance or date of debit to NRE/ FCNR(B) account, the amount of consideration so received shall be refunded to the person concerned by outward remittance through normal banking channels or by credit to his NRE/ FCNR(B) account, as the case may be. Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons permit an Indian company to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Ravinder Kumar, practising Company Secretary, appeared for personal hearing on August 16, 2019 on behalf of the applicant. The representative of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, he submitted that contraventions were without any *malafide* or wilful intention but were mainly due to delay in receipt of KYC from the respective banks as also on account of lack of awareness about FEMA related compliances and professional advice in this regard.



He requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, on account of delay in reporting foreign inward remittance received for issue of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹36,36,49,999.95 (Rupees Thirty Six Crore Thirty Six Lakh Forty Nine Thousand Nine Hundred Ninety Nine and Paise Ninety Five only) and the period of delay ranges from 4 days to 2 years, 8 months and 8 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, on account of delay in filing form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹38,07,16,730/- (Rupees Thirty Eight Crore Seven Lakh Sixteen Thousand Seven Hundred and Thirty only) and the period of delay ranges from 1 month and 22 days to 1 year, 4 months and 6 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, on account of delay in issue of shares beyond 180 days from the date of receipt of inward remittances, as detailed in paragraph 2(d) above. The contraventions relate to an amount of ₹5,23,20,629.95 (Rupees Five Crore Twenty Three Lakh Twenty Thousand Six Hundred Twenty Nine and Paise Ninety Five only) and the period of delay ranges from 1 month and 15 days to 11 months and 24 days.

5. It has been declared in the compounding application dated March 20, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has also been declared in the declaration dated March 20, 2019 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. 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. In terms of Section 13 of 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 compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹8,24,982/- (Rupees Eight Lakh Twenty Four Thousand Nine Hundred and Eighty Two only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹8,24,982/- (Rupees Eight Lakh Twenty Four Thousand Nine Hundred and Eighty Two only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi-110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi 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 16th day of August 2019.

Sd/-
(V.G. Sekar)
Chief General Manager