



In the

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

Present

**S.Arumugam**  
**Assistant General Manager**

Date: February 27, 2020  
CA No 5056 / 2019

In the matter of

**Vahdam Teas Pvt. Ltd.**  
**B-108, Okhla Industrial Area Phase-1**  
**South Delhi, Delhi 110020**  
**(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 an application dated November 08, 2019 (received at the Reserve Bank on November 14, 2019) 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 submission of Form ODI, (ii) Method of funding not as per prescribed Regulation and (iii) Non-submission of documentary evidence of investment within the stipulated time period. The above amount to the contraventions of Regulations 6(2)(vi), 6(3) and 15(i) of Foreign Exchange



Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/RB-2004 dated July 07, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/RB-2004).

2. The relevant facts are as under: The applicant company, Vahdam Teas Private Limited, was incorporated on December 29, 2014 (CIN No.U15122DL2014PTC274727) under Companies Act 2013. The company is involved in the business of distributors, packagers, exporters and dealers by direct selling and through e commerce in tea leaves and other allied products. The applicant company had set up an Wholly Owned Subsidiary (WOS), M/s Vahdam Teas Global Inc., in USA on January 08, 2018 and the WOS was engaged in the business of distribution and marketing of teas. The applicant company had made an investment of USD 100 into the WOS. The investment was made by Mr. Vatsal Thakkar a certified public accountant(CPA) who had incurred the expenses on behalf of the applicant company and the WOS issued 1000 shares to the applicant company at USD 0.10 par value. The applicant company had submitted the Form ODI to the Authorised Dealer Bank for the aforesaid Overseas Direct Investment with a delay on September 12, 2019 which is not in line with Regulation 6(2) (vi) of the Notification No. FEMA 120/RB-2004. Further, the mode of investment through a CPA is in contravention to Regulation 6(3) of the Notification *ibid*. Furthermore, the applicant company had received the share certificate as an evidence of investment on January 10, 2019 which is beyond the prescribed time limit and is in contravention to Regulation 15(i) of the Notification *ibid*.

3. In terms of Regulation 6(2)(vi) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, Overseas Direct Investment is permitted in certain cases provided “ the Indian Party submits Part I of the Form ODI, duly completed, to the designated branch of an authorized dealer”.

Further, in terms of Regulation 6(3) of Notification *ibid* “Investment under this Regulation may be funded out of one or more of the following sources, namely:

- (i) Out of the balance held in Exchange Earners’ Foreign Currency account of the Indian Party maintained with an authorized dealer in



accordance with Regulation 4 of Foreign Exchange Management (Foreign Currency accounts by a person resident in India) Regulations, 2000;

- (ii) drawal of foreign exchange from an authorized dealer in India shall not exceed 100% or as decided by the Reserve Bank from time to time, of the networth of the Indian Party as on the date of last audited balance sheet.

Further, In terms of Regulation 15(i) An Indian Party which has acquired foreign security in terms of the Regulation in Part I, shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months.....

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/3815/15.20.67/2019-20 dated January 23, 2020 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 11, 2020 during which Mr. Srijith Nair, Senior Finance Manager, Vahdam Teas Pvt Ltd represented the applicant company. The representative, of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and the contraventions were committed 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 Regulations 6(2) (vi), 6(3) and 15(i) of Notification No.FEMA.120/2004-RB. The amount of contravention is Rs.6,428/- and period of contravention ranges from four months to twenty months approximately.

6. It has been declared in the compounding application dated November 08, 2019, that the particulars given by the applicant in the application are true and correct to the best of their 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 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 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 1072/ - (Rupees One Thousand and Seventy Two 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, Regulations 6(2) (vi), 6(3) and 15(i) of Notification No.FEMA.120/2004-RB, as amended from time to time, on payment of a sum of Rs.1072/- (Rupees One Thousand and Seventy Two 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 27<sup>th</sup> of February, 2020

**Sd/-**  
**(S Arumugam)**  
**Assistant General Manager**