



In the

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

Present

R. K. Moolchandani
Chief General Manager

Date: January 17, 2020
CA No 4989/ 2019

In the matter of

Dabur India Limited
3rd floor, Punjabi Bhawan,
10, Rouse Avenue,
New Delhi – 110002.

(Applicant)

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

Order

The applicant has filed the application dated July 29, 2019 (received in the Reserve Bank of India on July 30, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder for:

(a) setting up a Step Down Subsidiary (SDS) in Pakistan without prior approval of Government of India (GoI) when it was prohibited, in 2006, in contravention of Regulation 5(i) read with Regulation 6(2) and setting up another SDS without prior approval of RBI in 2015 in contravention of Regulation 6(2)



(b) delayed reporting of setting up of SDS in Pakistan, in 2015, in contravention of Regulation 13 of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under:

The applicant company was originally incorporated in 1975 as Vishal Chemicals and later its name was changed to Dabur India in September 1986 (CIN L24230DL1975LC007908) and is involved in the manufacture of natural consumer products. The company had set up an overseas SDS in 2006 viz. "Asian Consumer Care Pakistan (Pvt) Ltd" which was prohibited then and this resulted in violation of Regulation 5(1) read with Regulation 6(2) of Notification No. FEMA 120/2004-RB. Further, it had also set up another overseas SDS in 2015 viz. "Dabur Pakistan (Pvt) Ltd", without obtaining prior approval of the RBI. This was a violation of Regulation 6(2) of Notification No. FEMA 120/2004-RB. Also, the applicant company delayed the reporting of setting up of SDS in Pakistan, in April 2015. The delayed reporting in February 2016 was in violation of Regulation 13 of FEMA 120. Government of India, Ministry of External Affairs, has conveyed its "No Objection" for setting up of both the SDS in Pakistan in September 27, 2018. OID, FED, RBI had accorded its post-facto approval for the SDS - "Dabur Pakistan (Pvt) Ltd", on May 31, 2019. Thus the transactions related to setting up and reporting of SDSs were regularized and administrative action was complete, subject to compounding.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2623/15.20.67/2019-20 dated November 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing was held on November 28, 2019 during which the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter.

4. It has been declared in the compounding application dated July 29, 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 furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. 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.

5. I have given my careful consideration to the documents on record and submissions made by the applicant. It was observed that the applicant has contravened the provisions of Regulation 5(i) read with Regulation 6(2), Regulation 6(2) and Regulation 13 of Notification No.FEMA.120/2004-RB. The amount and period of contravention involved is as follows:

- (i) Regulation 5(i) read with Regulation 6(2) - Rs 5,31,76,651/- and the period of contravention is from April 30, 2006 to May 31, 2019
- (ii) Regulation 6(2) – Rs 31,27,500/- and the period of contravention is from April 21, 2015 to May 31, 2019
- (iii) Regulation 13 – Rs 31,27,500/- and the period of contravention is from May 21, 2015 to February 15, 2016

6. In terms of Section 13 of the FEMA, any person contravening¹ 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, it stands to reason that payment of an amount of Rs.5,32,593/- (Rupees Five lakhs thirty two thousand five hundred and ninety three only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(i) read with Regulation 6(2), Regulation 6(2) and Regulation 13 of Notification No.FEMA.120/2004-RB, on payment of a



sum of Rs.5,32,593/- (Rupees Five lakhs thirty two thousand five hundred and ninety three only) which shall be deposited by the applicant with the "The Chief General Manager – In – Charge, 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 17th day of January, 2020

Sd/-
(R. K. Moolchandani)
Chief General Manager