



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Ajay Kumar Misra
Chief General Manager

Date: December 5, 2018
CA No 4724 / 2018

In the matter of

Apache Footwear India Private Limited
Mambattu Village, Tada Mandal
Nellore District, Andhra Pradesh – 524401

(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 June 06, 2018 (received in the Reserve Bank on June 13, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for credit of remittances received towards FDI in the EEFC account, in contravention of Regulation 4 read with Paragraph 2 to Schedule I of Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations 2000 notified vide Notification No. FEMA 10/2000-RB dated



May 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 10/2000-RB).

2. The relevant facts are as under: The applicant company was incorporated as Apache Footwear India Private Limited (CIN U19202AP2006PTC49219), under the Companies Act, 1956, on February 20, 2006. The applicant company is engaged in the business of manufacturing, buying, selling, exporting, importing, distributing and dealing in all kinds of footwear, rubber and plastic goods, sports apparel etc.

The applicant has received multiple foreign inward remittances from Apache Investment Holding Pte Ltd (AIHPL) as foreign direct investment. Out of these, a total of 51 inward remittances received from 2006 to 2009, were erroneously credited to/received in the EEFC account (instead of the current account of the applicant company). As this was not a permissible credit to an EEFC account, it resulted in a contravention of Regulation 4 read with Paragraph 2 of Schedule I of Notification No. FEMA 10/2000 –RB. The funds were subsequently transferred to the current account of the applicant in all the 51 instances, thereby completing the administrative action. The contraventions related to reporting delays are being processed by the Regional Office, under the delegated powers of compounding.

The details of the contravening transactions are as under:

S.No.	Name of the remitter	Amount (INR)	Date of receipt in EEFC account	Date of transfer from EEFC account
1	AIHPL	30843000	29.11.2006	22.12.2006
2	-do-	8869829	21.12.2006	29.12.2006
3	-do-	11087329	22.12.2006	29.12.2006
4	-do-	13289829	18.01.2007	24.01.2007
5	-do-	6644829	24.01.2007	29.01.2007
6	-do-	5315432	29.01.2007	31.01.2007
7	-do-	15061432	31.01.2007	07.02.2007
8	-do-	4404435	03.02.2007	08.02.2007



9	-do-	20482685	07.02.2007	12.02.2007
10	-do-	21143435	12.02.2007	15.02.2007
11	-do-	41406435	15.02.2007	09.03.2007
12	-do-	6606935	09.03.2007	21.03.2007
13	-do-	4404436	09.03.2007	13.03.2007
14	-do-	12333435	20.03.2007	29.03.2007
15	-do-	2862685	29.03.2007	10.04.2007
16	-do-	8148685	29.03.2007	10.04.2007
17	-do-	21724443	04.04.2007	12.04.2007
18	-do-	14337943	12.04.2007	13.04.2007
19	-do-	2171943	16.04.2007	16.04.2007
20	-do-	13468943	19.04.2007	27.04.2007
21	-do-	20846754	27.04.2007	09.05.2007
22	-do-	4195000	09.05.2007	11.05.2007
23	-do-	25170000	15.05.2007	24.05.2007
24	-do-	12585000	23.05.2007	29.05.2007
25	-do-	6135000	04.06.2007	06.06.2007
26	-do-	14315000	06.06.2007	12.06.2007
27	-do-	12270000	13.06.2007	18.06.2007
28	-do-	12270000	15.06.2007	22.06.2007
29	-do-	12270000	20.06.2007	28.06.2007
30	-do-	12270000	28.06.2007	06.07.2007
31	-do-	4105000	05.07.2007	06.07.2007
32	-do-	10262500	06.07.2007	26.07.2007
33	-do-	13035000	13.07.2007	23.07.2007
34	-do-	8209474.15	20.07.2007	08.08.2007
35	-do-	10862152.4	23.07.2007	08.08.2007
36	-do-	6157500	26.07.2007	08.08.2007
37	-do-	4046344.82	30.07.2007	17.08.2007
38	-do-	16220000	07.08.2007	27.08.2007
39	-do-	6082500	14.08.2007	27.08.2007
40	-do-	14192500	21.08.2007	16.12.2007



41	-do-	14565760	24.08.2007	27.08.2007
42	-do-	19464000	27.08.2007	22.07.2008
43	-do-	19924681.2	31.10.2007	13.11.2007
44	-do-	9165500	26.11.2007	30.11.2007
45	-do-	13947500	30.11.2007	07.12.2007
46	-do-	19925000	06.12.2007	18.01.2008
47	-do-	13947500	18.12.2007	02.01.2008
48	-do-	11910000	23.01.2008	04.02.2008
49	-do-	71750310	20.01.2009	17.02.2009
50	-do-	49580000	12.05.2009	30.05.2009
51	-do-	23890000	20.05.2009	30.05.2009
	Total	75,81,78,094.60		

3. Whereas Regulation 4 of Notification No.FEMA.10/2000-RB dated May 03, 2000 as amended from time to time regulates the opening, holding and maintenance of Exchange Earners' Foreign Currency Account, Paragraph 2 of Schedule I of the same Notification lists the permissible credits to the account. FDI proceeds does-not form a part of this list.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2837/15.20.67/2018-19 dated November 14, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on December 04, 2018 during which Shri V.P. Kuriachan, Chartered Accountant, represented the applicant. The representative of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated June 06, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration furnished along with the compounding application that the applicant was under DoE enquiry as on the date of the application. The DoE, vide their



letter ref No. F.No. RBI/SDE/WR/B-195/2018/1313 dated 18.07.2018, has stated that it has no objection on RBI initiating action on the application under compounding procedure for the contraventions under FEMA, 1999. This order is thus in accordance with the no-objection given by DoE and without prejudice to any action that may be taken by DoE because of the ongoing investigations. 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. 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 4 read with Paragraph 2 to Schedule I of Notification No.FEMA.10/2000-RB. The amount of contravention is Rs. 75,81,78,094.60/- and the period of contravention ranges from 1 day to 331 days approximately.

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. 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. Rs. 38,40,890/- (Rupees thirty eight lakh forty thousand eight hundred and ninety only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 4 read with Paragraph 2 to



Schedule I of Notification No.FEMA.10/2000-RB, on payment of a sum of Rs. 38,40,890/- (Rupees thirty eight lakh forty thousand eight hundred and ninety 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 fifth day of December, 2018

Sd/-

Ajay Kumar Misra
(Chief General Manager)