



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Dr. K Balu
Chief General Manager

Date : January 23, 2019
C.A.847/2018

In the matter of

M/s. AVT Gavia Foods Pvt Ltd.,
No.60, Rukmani Lakshmi pathy Salai,
Egmore,
Chennai-600 008

(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/orders made there under, I pass the following

Order

The applicant has filed a compounding application dated October 30, 2018 (received at Reserve Bank on November 08, 2018) 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 delay in reporting of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9 (1) A of Schedule I 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on January 02, 2008 under the provisions of the Companies Act, 1956 (Registration No. U15499TN2008PTC065914) and is engaged in business of other semi-processed, processed or instant foods n.e.c. except farinaceous products and malted foods and manufacturing activities like manufacture of egg powder, sambar powder etc. (this excludes the activities covered under 10619). The applicant has been compounded earlier for contraventions of paragraphs 9(1)A, 9(1)B and 8 of Schedule 1 to Notification No. FEMA 20 vide compounding order C.A.029/2013 dated March 12, 2013. In terms of Rule 4(2) of Foreign Exchange (Compounding Proceedings) Rules 2000, any contravention committed by a person within a period of three years from the date on which a similar contravention committed by him was compounded under these rules would not be compounded. Any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention. On expiry of three years from the previous order, the applicant received foreign inward remittances from M/s Gavia India AB, Sweden towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	51,30,800.00	07.04.2016	07.05.2016
2	1,00,00,000.00	26.07.2017	09.01.2018

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay of four months 13 days approximately beyond the prescribed period of 30 days in respect of the remittance at Sl. No. 2. Whereas, in terms of paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from



the date of receipt of the amount of consideration. Against the above remittances the company allotted shares and filed the FC GPRs within the prescribed period.

3. The applicant was advised about the contraventions vide memorandum dated April 13, 2018 and July 11, 2018. The applicant has filed a compounding application dated October 30, 2018 wherein it has been declared in the compounding application that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration dated October 30, 2018 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/him/her 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.

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated January 21, 2019 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on January 23, 2019 during which Shri Vignesh Balaji represented the applicant. The authorized representative of the applicant admitted the contravention as stated in para 2 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during the personal hearing.

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



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issued in terms of Paragraph 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹1,00,00,000.00 with the duration of contravention being four months 13 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. However, taking into account the relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount of **₹46,500/-** (Rupees forty six thousand and five hundred only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹46,500/-** (Rupees forty six thousand and five hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 of accordingly.

Dated this Twenty Third day of January, 2019.

Sd/-

Dr. K Balu

Chief General Manager