



In the
Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

H. Thangzaman
Chief General Manager

Date: January 31, 2019
C.A.082/2018

In the matter of
M/s Jinaehat Exports Private Limited
140/21A, Ganapati Sur Sarani
Kolkata-700050
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated October 22, 2018 (received at Reserve Bank on November 20, 2018) 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 is for delay in submission to the Reserve Bank of both Form ARF after receipt of inflow from a person resident outside India and Form FC-GPR after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of Paragraph 9(1)(A) and 9(1)(B) respectively to 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 03, 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, M/s Jinaehat Exports Private Limited, was incorporated under Companies Act, 1956, on February 26, 2002. The applicant is in the business of manufacturing of Gold Jewellery. The applicant had received foreign inward remittances for subscription to equity shares under the Automatic Route from foreign investor Mr. R.K.Bengani. Of the two inward remittances, the applicant had reported one with a delay of 299 days beyond the stipulated period of 30 days, as tabulated in Table 1 below.

Table 1: Delayed reporting of inflow of foreign remittances

Sl. No.	Name of Investor	Inflow (INR)	Inflow (USD)	Date of inflow	Date of reporting of inflow to RBI	Delay beyond 30 days (Days)
1	R.K. Bengani	1,00,43,991.00	1,99,960.00	19-Mar-12	18-Apr-12	0
2	R.K. Bengani	1,05,40,886.00	1,58,450.00	23-Mar-16	15-Feb-17	299

3. The applicant allotted equity shares in two tranches to the foreign investor within the stipulated period from receipt of foreign inward remittances, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB.

4. The applicant allotted 40,175 equity shares and 21,081 equity against the above receipts in two separate tranches to Mr. R.K.Bengani, and reported the allotment of shares in form FC-GPR to the Reserve Bank on dates as indicated in Table 2 below.



Table 2: Allotment of shares to foreign investors and reporting thereof

Sl. No.	Inflow (INR)	Amount for which shares have been issued	Date of inflow	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	1,00,43,991.00	1,00,43,750.00	19-Mar-12	07-Sep-12	14-Sep-12	0
2	1,05,40,886.00	1,05,40,500.00	23-Mar-16	14-May-16	19-Sep-16	98

Out of the two allocation of shares, delay of 98 days has been observed in filing of the second FC-GPR. Whereas in terms of para 9(1) B of schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares in accordance with these regulations has to submit to the Reserve Bank of India a report in form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to person resident/ outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.CEFA.1067/03.39.993/2018-19 dated January 10, 2019, for further submission in person and/or producing documents, if any, in support of the application. On the date of personal hearing, i.e., January 25, 2019, the applicant represented by Shri Krishna Jaiswal, admitted the contraventions as stated in para 2 & 4 of this Order. During the personal hearing, the applicant requested to take a lenient view in the matter.

6. It has been declared in the compounding application dated October 22, 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 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. 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 contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.

7. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- a. Paragraph 9(1)(A) of Schedule 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 1,05,40,886 and the period of delay, rounded off to the next month is ten months.
- b. Paragraph 9(1)(B) of Schedule 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 1,05,40,500 and the period of delay, rounded off to the next month is four months.

8. In terms of section 13 of the FEMA, any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. Considering the circumstances which led to the delay and other relevant facts of the case, I am, however, inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of Rs. 78,334 (Rupees Seventy Eight Thousand Three hundred and Thirty Four only) will meet the end of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraph 9(1)(A) and 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Rs. 78,334 (Rupees Seventy Eight Thousand Three



hundred and Thirty Four only) which is to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Sd/-

(H. Thangzamuan)

Chief General Manager

Dated this Thirty First day of January, 2019