



**In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
20 EDC Complex, Patto Plaza,
Panaji 403 001, Goa, INDIA**

Present

**Shri Carey Mascarenhas
Assistant General Manager**

Date: February 1, 2018

CA No: PAN 7

In the matter of

**M/s Esmes Pantry Pvt Ltd
Regd. Off. H. No. 678, Galao Gavona
Chorao, Goa 403 102
(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 September 28, 2017 (received at Reserve Bank of India, Panaji on September 29, 2017) for compounding of contravention 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 issue of shares to a person



resident outside India in terms of Paragraph 8 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 3rd May 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 is a company registered as a private limited company, incorporated on May 27, 2006 under the Companies Act, 1956 with the main object of undertaking the business of travel and tourism support services.

The applicant company had received foreign inward remittance amounting to Rs. 25,27,500/- on July 4, 2006. Out of this amount company allotted amounting to Rs.22,50,000/- and the balance amount of Rs.2,77,500/- was lying with the company since July 4, 2006. On May 4, 2017 the applicant company approached Reserve Bank of India through their AD Bank seeking approval to refund the balance amount of Rs.2,77,500/-. The approval for refund of balance amount was given vide letter dated May 12, 2017 and the transaction was regularized on May 22, 2017 with a delay of 10 years and 4 months 21 days approximately beyond the prescribed period of 180 days. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, the shares have to be issued and / or amount refunded within 180 days from the date of receipt of the inward remittance.

3. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. PNJ.FED.388/02.01.457/2017-18 dated January 15, 2018 for further submission in person and/or producing documents, if any, in support of the application. Dr. Esme Purdie, Director of the applicant company appeared for the personal hearing on January 29, 2018. The applicant admitted the contravention committed by the company for which compounding has been



sought. They further stated that they had not been conversant/familiar with local laws and there has been no unfair gain to any party due to above contravention. In view of the above foregoing, the representative requested that the matter may be viewed leniently. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as submissions made in this context during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares. The contravention relates to an amount of Rs.2,77,500/- and the duration of contravention is 10 years 4 months 21 days approximately.

5. 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 Rs.32,081/- (Rupees Thirty Two Thousand Eighty One only) will meet the ends of justice.

6. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 8 of Schedule I 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 Rs.32,081/- (Rupees Thirty Two Thousand Eighty One only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC, Patto Plaza, Panaji, Goa 403 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at



M/s Esme Purdie Pvt Ltd
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"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 of accordingly.

Dated this the 1st day of February, 2018.

Sd/-

(Carey Mascarenhas)
Assistant General Manager