



In the

Reserve Bank of India  
Foreign Exchange Department  
5<sup>th</sup> Floor, Amar Building  
Sir PM Road  
Mumbai – 400001

Present

Sandeep Mittal  
General Manager

Date: April 24, 2018  
CA NO: 4614/2018  
In the matter of

**Dempo Industries P. Ltd**  
**Dempo House Campal**  
**Panaji Goa-4030001**

(Applicant)

In exercise of powers conferred 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 January 3, 2018 (received in the Reserve Bank of India on January 5, 2018) for compounding the contraventions of the provisions of the Foreign Exchange Management Act, 1999 (The FEMA) and the regulations issued there under. The contraventions sought to be compounded are delay in submission of APRs for the year 2009 and 2010, undertaking disinvestment without submitting APRs and repatriation of disinvestment proceeds with delay beyond 90 days. The above amounts to the contravention of the Regulation 15(iii), 16(1)(v) and 16(2) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time (hereinafter referred to as Notification No FEMA 120-RB 2004).



2. The relevant facts of the case are follows:

The applicant company was incorporated on December 15, 1987 as Universal Beverages Ltd. Its name was subsequently changed to Dempo Industries Ltd on July 26, 2000 and further as Dempo Industries P. Ltd on April 3, 2001. The applicant is engaged in the business of soft drinks, aerated water, mineral water, beverages, packing material, proprietors and publishers of newspapers, journals, magazines, books etc. The applicant had made an initial investment of USD 247,500 on October 06, 2009 in the overseas wholly owned subsidiary, Dempo Global Resources, Indonesia. However, APRs for the year 2009 and 2010 were submitted with delay on April 24, 2012, thereby contravening Regulation 15(iii) of Notification No FEMA 120-RB 2004.

2.1 The business of the overseas WOS was not economically viable and the applicant liquidated the overseas WOS on January 17, 2011. The liquidation proceeds amounting to USD 189,990 were repatriated to India with delay on February 23, 2012. This was not in line with Regulation 16(2) of Notification No. FEMA 120-RB 2004, under which disinvestment/liquidation proceeds are required to be repatriated within 90 days of disinvestment.

2.2 Further, such disinvestment was undertaken without submitting all APRs pertaining to the overseas WOS was not in line with Regulation 16(1) (v) of Notification No. FEMA 120-RB 2004.

3. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./8041/15.20.67/2017-18 dated March 26, 2018 for further submission in person and /or producing documents, if any, in support of the application. The applicant vide its e-mail dated April 9, 2018 opted for not having a personal hearing. The application is considered on the basis of the averments made and documents produced in the application.

4. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 15(iii), 16(1) (v) and 16(2) of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.



(i) Regulation 15(iii) of FEMA 120-RB 2004 as amended from time to time: APRs for the year 2009 and 2010 were submitted with delay on April 24, 2012.

(ii) Regulation 16(2) of Notification No. FEMA 120-RB 2004 as amended from time to time: the applicant liquidated the overseas WOS on January 17, 2011. The liquidation proceeds amounting to USD 189,990 were repatriated to India with delay on February 23, 2012 whereas disinvestment/liquidation proceeds are required to be repatriated within 90 days of disinvestment.

(iii) Regulation 16(1) (v) of Notification No. FEMA 120-RB 2004: The disinvestment was undertaken without submitting all APRs pertaining to the overseas WOS

5. In terms of provisions of Section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the 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. 2,26,376.00 (Rupees Two lakh twenty six thousand three hundred seventy six only) will meet the ends of justice.

6. It has been declared in the compounding application dated 3<sup>rd</sup> January 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 dated 22<sup>nd</sup> January 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.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(iii), 16(1) (v) and 16(2) of Foreign Exchange Management



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(Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant stated above on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs. 2,26,376.00 (Rupees Two lakh twenty six thousand three hundred seventy six only) which shall be deposited by the applicant with the Reserve Bank of India, 11<sup>th</sup> Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the 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 shall apply.

The application is disposed accordingly.

Dated this the twenty fourth day of April 2018.

Sd/-

(Sandeep Mittal)

General Manager