



In the

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

Present

Shekhar Bhatnagar
Chief General Manager

Date: June 27, 2018
CA No 4700 / 2018

In the matter of

Millith Karv Engineering & Trading Pvt. Ltd.
38 LGF, New Mandakini, NRI Complex
Greater Kailash – IV, New Delhi - 110019

(Applicant)

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

Order

The applicant has filed the application dated May 03, 2018 (received in the Reserve Bank on May 07, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is non-receipt of share certificates within the stipulated time period of 180 days. The above amounts to the contravention of Regulation 15(i) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July



7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant was incorporated as Millith Karv Trading & Engineering Pvt. Ltd. on October 22, 1991 (CIN: U74899DL1991PTC046104). The applicant is engaged in the business of trading, buying, selling, dealing etc. of engineering goods, chemicals and its bye-products etc.

The applicant entered into a business deal with an overseas entity, namely, M/s Wular International Co. Ltd., Ghana, on the basis of a letter of confirmation dated 22.12.2012, wherein the applicant had to invest USD 450,000 in lieu of a shareholding of 45% in the said overseas entity. The abovementioned investment was for the purposes of tender-bidding with respect to the allotment of teak plantation from the government of Ghana. However, the tender was not accepted and the plantation was not allotted to the overseas company. Meanwhile, in accordance with the letter dated 22.12.2012, the applicant made the initial investment in the overseas company to the extent of USD 200,000 (Rs. 1,10,70,990), on 08.01.2013. Since, the business deal did not materialize, the remittance of USD 200,000 was repatriated on 18.09.2013 (The actual amount repatriated was USD 199,947 since an amount of USD 53 was deducted as bank charges). However, since the time period of six months during which the shares should have been allotted, was exceeded, it resulted in a contravention of Regulation 15(i) of Notification No. FEMA 120/2004-RB.

3. Regulation 15 (i) of Notification No.FEMA.120/2004-RB, states that “An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months....”

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/10359/15.20.67/2017-18 dated June 15, 2018 for further submission in person and/or producing documents, if any, in support of the



application. The applicant, however, vide e-mail dated June 19, 2018, submitted that it did not have anything further to submit, or add to the documents already furnished with the compounding application, and hence it would not like to avail of the option of personal hearing. The applicant further requested that the compounding application be disposed based on the merits of the case and the documents submitted along with the compounding application.

It has also been declared in the compounding application dated May 03, 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 subsequently declared in the declaration dated May 08, 2018, furnished as an addendum to 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 been 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.

The application is, therefore, being considered on the basis of the averments made and the documents produced in the compounding application, and thereafter.

5. I have given my careful consideration to the documents on record and acceded to the request of not availing of the option of personal hearing. It was observed from the documents submitted that the applicant has contravened the provisions of Regulation 15(i) of Notification No.FEMA.120/2004-RB. The amount of contravention Rs. 1,10,70,990/- (USD 200,000) and the period of contravention is three months 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. 10,000/- (Rupees ten thousand 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 contraventions committed by the applicant namely, Regulation 15(i) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs. 10,000/- (Rupees ten thousand 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 twenty seventh day of June, 2018

Sd/-

(Shekhar Bhatnagar)
Chief General Manager