



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

R Subramanian
Regional Director

Date: June 29, 2018
C.A. HYD 309

In the matter of

M/s Everup Battery India Private Limited
E-61, Srinivasa Heights
Adarsh Nagar, Uppal
Rangareddy District, Hyderabad
Telangana-500039

(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 compounding application dated May 10, 2018 received on May 15, 2018 for compounding of contravention of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity and (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India in terms of Paragraph 9(1)(A) and Paragraph 9(1)(B) of 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 3rd May 2000 (herein after referred to as Notification no. FEMA 20/2000-RB) as then applicable.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited company under the Companies Act, 2013 on December 20, 2016 (CIN: U74999TG2016PTC113544). The company is engaged in the business of Manufacture of batteries and accumulators.
- b) The applicant had received foreign inward remittances from the single investor towards advance for subscription to equity shares as indicated below:

S No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Mountain Top Holdings Limited	12963703.50	29-03-2017	28-04-2017
2	Mountain Top Holdings Limited	19283057.17	02-06-2017	10-07-2017
3	Mountain Top Holdings Limited	13978585.10	01-08-2017	30-08-2017
4	Mountain Top Holdings Limited	9534583.96	05-09-2017	14-10-2017
5	Mountain Top Holdings Limited	9494094.22	11-09-2017	14-10-2017
	Total	6,52,54,023.95		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 6,52,54,023.95 to the Regional Office of Reserve Bank of India on dates as indicated above out of which remittances amounting to ₹ 3,83,11,735.35 were



reported with delays ranging from 3 days to 9 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

c) The company allotted equity shares and filed form FC-GPRs as indicated

Sl No	Name of investor	Date of allotment	Number of shares/CC PS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Mountain Top Holdings Ltd	27-05-2017	1296370	12963700	05-03-2018
2	Mountain Top Holdings Ltd	31-07-2017	1928305	19283050	05-03-2018
3	Mountain Top Holdings Ltd	04-09-2017	1397858	13978580	05-03-2018
4	Mountain Top Holdings Ltd	02-11-2017	1902867	19028670	13-04-2018
		Total	6525400	6,52,54,000	

below:

The applicant filed form FCGPR for the allotment of shares amounting to ₹ 6,52,54,000/- as indicated above and all are reported with delays ranging from 4 months 12 days to 8 months 7 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA



20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2252/14.66.003/2017-18 dated June 22, 2018 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on June 26, 2018 during which Shri. Gouri Shanker Mishra, Practicing Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was purely technical. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of :-

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to ₹ 3,83,11,735.35 and the delay ranges from 3 days to 9 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹



6,52,54,000/- and the delay ranges from 4 months 12 days to 8 months 7 days approximately.

5. It has been declared in the compounding application dated May 10, 2018 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 May 10, 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 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.

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 contravention is to be compounded and I consider that an amount of ₹ 1,37,620/- (Rupees One Lakh Thirty Seven Thousand Six Hundred Twenty Only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 9(1)(B) 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 ₹ 1,37,620/- (Rupees One Lakh Thirty Seven Thousand Six Hundred Twenty Only)



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which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 29th day of June 2018

Sd/-

(R Subramanian)
Regional Director