



In the

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

Present

N Sara Rajendra Kumar
General Manager

Date: June 14, 2018
C.A. HYD 281

In the matter of

M/s. Sumhitha Polyfabrics Private Limited
101, Doyen Chambers
8-3-319/11, Yellareddyguda
Hyderabad - 500 073

(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 January 30, 2018 received by us on February 1, 2018 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contravention sought to be compounded are, (i) delay in reporting receipt of foreign inward remittances, (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity and (iii) delay in refund of excess share application money in terms of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 8 respectively 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 May 03, 2000 (hereinafter 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 August 17, 2016 (CIN: U17299TG2016PTC111506). The company is engaged in the business of manufacture of other textiles n.e.c.
- b) The applicant had received foreign inward remittances from single investor as indicated below:

Sl No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Muralidhar V Penubothu	2570586	22-11-2016	14-02-2017
2	Muralidhar V Penubothu	1516436	03-11-2016	09-02-2017
3	Muralidhar V Penubothu	1332019.50	08-05-2017	23-06-2017
	Total	54,19,041.50		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 54,19,041.50 to the Regional Office of Reserve Bank of India with a delay ranging from 16 days to 2 months 7 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 below:

Sl No	Name of investor	Date of allotment of shares	Number of shares/CCP S allotted	Amount for which shares allotted (INR)	Date of reporting
1	Muralidhar V Penubothu	25-11-2016	257057	2570570	28-03-2017
2	Muralidhar V Penubothu	17-11-2016	151643	1516430	04-03-2017
3	Muralidhar V Penubothu	08-05-2017	131300	1313000	24-01-2018
	Total		5,40,000	54,00,000	

The applicant filed form FCGPRs for the allotment of shares amounting to ₹ 54,00,000/- as indicated above which was reported with a delay of 2 months 16 days to 7 months 17 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 of India 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.

d) The company has refunded the excess share application money of ₹ 19,019.50 to the foreign investor beyond the stipulated period of 180 days from the date of receipt of remittance as indicated below:

Sl No	Name of investor	Date of receipt	Total Amount (INR)	Excess share application money (INR)	Date of seeking RBI approval for refund
1	Muralidhar V Penubothu	08.05.2017	1332019.50	19019.50	08.05.2018
	Total			19,019.50	



Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. Here the amount of contravention is ₹ 19,019.50 and the period of contravention is 6 months 4 days approximately.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2138/14.66.003/2017-18 dated June 06, 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 13, 2018 during which Shri. Ohm Satya Prasad Ravi, Managing Director and Shri. Gubba B V N Manikanta, Chartered Accountant, represented the applicant. The authorized representatives 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 on account of shortage of professional staff and sheer inadvertence. 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 ₹ 54,19,041.50 and the delay ranges from 16 days to 2 months 7 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 ₹ 54,00,000/- and the delay ranges from 2 months 16 days to 7 months 17 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of excess share application money to the foreign investor and the contravention relates to an amount of ₹ 19,019.50 and the delay is 6 months 4 days approximately.

5. It has been declared in the compounding application dated January 30, 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 January 30, 2018 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 **₹ 25,339/- (Rupees Twenty Five Thousand Three Hundred Thirty Nine 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 **₹ 25,339/- (Rupees Twenty Five Thousand Three Hundred Thirty Nine Only)** 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 14th day of June 2018

Sd/-

(N Sara Rajendra Kumar)
General Manager