



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Dr. K Balu
Chief General Manager

Date : June 22, 2018
C.A.790/2016

In the matter of

M/s. Beva Silicones Pvt Ltd.,
367, SIDCO Industrial Estate,
Ambattur,
Chennai-600098

(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 April 25, 2018 (received at 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 there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares, and (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank,



in terms of Paragraph 9 (1) A and Paragraph 9 (1) B respectively, 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 May 3, 2000.

2. The relevant facts of the case are as follows: The applicant company was incorporated on December 01, 2008 under the provisions of the Companies Act, 1956 (Registration No. U24299TN2008PTC070032) and is engaged in business of manufacture of chemical products or preparations of a kind used in the textiles, paper, leather and like industries. The applicant has been compounded earlier for contraventions of paragraphs 9(1)A and 9(1)B of Schedule 1 to Notification No. FEMA 20 vide compounding order C.A.048/2013 dated June 14, 2013. Subsequent to the order, the applicant received foreign inward remittances from i) Mr. Arun Vivekanandan Ariyathenam, UK ii) Mr. Ineeyan Vivekanandan Ariyathenam, UAE towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	25,00,000.00	09.12.2014	20.01.2015
2	50,00,000.00	11.12.2014	19.06.2015
3	25,00,000.00	22.12.2014	20.01.2015
4	31,38,248.92	21.07.2015	07.08.2015
5	31,38,173.10	10.08.2015	24.08.2015
6	32,87,736.96	10.09.2015	28.09.2015
7	32,62,239.00	23.12.2015	28.01.2016
8	19,57,659.83	05.01.2016	28.01.2016
9	19,54,839.32	04.04.2016	28.04.2016
10	25,08,495.92	29.07.2016	20.08.2016
11	14,95,662.13	15.03.2017	27.03.2017
12	31,61,993.25	29.08.2017	22.09.2017
13	32,09,544.50	26.10.2017	20.11.2017
14	32,17,242.60	21.11.2017	04.12.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from six days to five months eight days approximately beyond



the prescribed period of 30 days in respect of the remittances at Sl. Nos. 1,2 and 7. Whereas, in terms of paragraph 9 (1) A of Schedule I 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.

3. The company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	384614	10	99,99,964.00	19.01.2015	07.07.2015
2	216428	10	62,76,412.00	17.08.2015	07.09.2015
3	113370	10	32,87,730.00	29.09.2015	29.10.2015
4	179996	10	52,19,884.00	29.01.2016	29.02.2016
5	67408	10	19,54,832.00	30.04.2016	20.05.2016
6	78390	10	25,08,480.00	10.09.2016	04.10.2016
7	34782	10	14,95,626.00	14.04.2017	12.05.2017
8	70266	10	31,61,970.00	09.10.2017	31.10.2017
9	71323	10	32,09,535.00	01.11.2017	23.11.2017
10	71494	10	32,17,230.00	18.12.2017	27.12.2017

The applicant filed form FC-GPRs as indicated above with delay of four months 18 days approximately beyond the prescribed limit in respect of the allotment at Sl. No.1. Whereas in terms of paragraph 9 (1) B of Schedule I 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The applicant was advised about the contraventions vide memorandum dated August 20, 2016. The applicant has filed a compounding application dated April 25, 2018 wherein it has been declared in the compounding application 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 April 25, 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated June 18, 2018 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on June 21, 2018 during which Shri Velmurugan Venkatachalam, Head-Finance & Accounts represented the applicant. The authorized representative of the applicant admitted the contravention as stated in para 2 and 3 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during the personal hearing.

6. I have given my careful consideration to the documents on record and submissions made by the applicant in the compounding application and during the personal hearing. 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 due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 1,07,62,239.00 with the duration of contravention ranging from six days to five months eight days approximately; and

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



M/s. Beva Silicones Pvt Ltd.–C.A.790/2016

₹ 99,99,964.00 with the duration of contravention being four months 18 days approximately.

7. 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 ₹ 40,260/- (Rupees forty thousand two hundred and sixty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 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 of ₹ 40,260/- (Rupees forty thousand two hundred and sixty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 Twenty second day of June, 2018.

Sd/-

Dr. K Balu
Chief General Manager