



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 : August 29, 2018
C.A.813/2017

In the matter of

M/s. Harris & Menuk Chemicals Pvt Ltd
Door No.6/15, Santhosam Salai,
Off Vanagaram Road,
Ayanambakkam,
Chennai-600 095

(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 July 2, 2018 (received at Reserve Bank on July 24, 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on March 3, 2015 under the provisions of the Companies Act, 1956 (Registration No. U24100TN2015PTC099457) and is engaged in business of other activities relating to finishing of textile n.e.c. 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	33,48,000.00	20.05.2015	08.06.2015
2	31,46,000.00	15.06.2015	10.07.2015
3	32,05,743.52	26.10.2015	04.11.2015
4	32,18,742.48	02.11.2015	18.11.2015
5	33,03,735.68	18.05.2016	27.07.2016
6	33,04,000.00	18.05.2016	16.06.2016
7	32,91,370.23	08.06.2016	08.07.2016
8	32,94,236.44	08.06.2016	01.09.2016
9	13,22,535.44	29.07.2016	05.10.2016
10	13,15,030.68	02.08.2016	01.09.2016
11	15,87,103.88	04.11.2016	12.11.2016
12	15,87,103.88	04.11.2016	12.11.2016
13	24,86,131.20	31.01.2017	08.02.2017
14	24,85,896.00	31.01.2017	08.02.2017
15	15,20,983.75	02.05.2017	23.05.2017
16	15,24,000.00	02.05.2017	23.05.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from one month six days to one month 22 days approximately beyond the prescribed period of 30 days in respect of remittances at Sl.No.5, 8 and 9.



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	629200	10	62,92,000.00	03.07.2015	05.08.2015
2	641148	10	64,11,480.00	24.12.2015	27.01.2016
3	93063	10	79,10,355.00	15.09.2016	14.10.2016
4	93063	10	79,10,355.00	15.09.2016	25.05.2017
5	37342	10	31,74,070.00	12.12.2016	10.01.2017
6	50220	10	49,71,780.00	14.04.2017	12.05.2017
7	30726	10	30,41,874.00	26.05.2017	21.06.2017

The applicant filed form FC-GPRs as indicated above with delay ranging from three days to seven months 10 days approximately beyond the prescribed limit in respect of the allotments at Sl.No.1, 2, and 4. 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 July 20, 2017. The applicant has filed a compounding application dated July 2, 2018 wherein it has been declared 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 nil 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 vide letter dated July 02, 2018 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 and 3 above for which compounding has been sought. It had been 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.

6. I have given my careful consideration to the documents on record and submissions made by the applicant in the compounding application. 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 ₹ 79,20,507.56 with delay ranging from one month six days to one month 22 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 ₹ 2,06,13,835.00 with delay ranging from three days to seven months 10 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



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the amount for which the contraventions are to be compounded and I consider that an amount

of **₹27,085/-** (Rupees twenty seven thousand and eighty five 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 **₹ 27,085/-** (Rupees twenty seven thousand and eighty five 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 ninth day of August, 2018.

Sd/-

Dr.K.Balu

Chief General Manager