



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 : September 25, 2018
C.A.804/2018

In the matter of

M/s. Arjun Health and Hygiene Pvt Ltd.,
Survey No.23, 101, Thandalam Group,
Velanthangal Village, Irungattukottai,
Sriperumbudur,
Kancheepuram – 602 105

(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 June 29, 2018 (received at Reserve Bank on July 03, 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



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and (ii) delay in submission of Form FC-GPR on allotment of shares to Reserve 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 November 27, 2008 under the provisions of the Companies Act, 1956 (Registration No. U21093TN2008PTC070012) and is engaged in business of manufacturing other paper products n.e.c. The applicant received foreign inward remittances from i) TOGA Invest AG, Switzerland ii) Arjun Global Holdings(Mauritius) Ltd, Mauritius towards subscription to equity shares and reported to Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance ₹	Date of receipt	Reported to RBI on
1	1,29,09,050.00	24.05.2012	20.11.2012
2	55,17,148.00	05.06.2013	20.12.2013
3	20,70,477.52	28.02.2014	28.04.2014
4	25,41,220.00	28.02.2014	17.03.2014
5	16,28,260.00	02.07.2014	05.08.2014
6	30,48,030.00	01.08.2014	07.08.2017
7	31,27,374.00	10.03.2015	24.04.2015
8	8,25,365.00	30.12.2015	06.08.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from three days to two years 11 months six days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. Nos. 1 to 3 and 5 to 8. 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.



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

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment of shares	Reported to RBI on
1	125330	100	1,29,08,990.00	09.11.2012	25.11.2012
2	52544	100	55,17,120.00	29.11.2013	28.12.2013
3	43920	100	46,11,600.00	22.08.2014	22.09.2014
4	44535	100	46,76,175.00	22.09.2014	07.08.2017
5	29784	100	31,27,320.00	25.03.2015	06.08.2017
6	5502	100	8,25,300.00	28.02.2016	06.08.2017

The applicant filed the form FC-GPRs as indicated above with delay ranging from one day to two years nine months 15 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 3 to 6. 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 May 16, 2018. The applicant has filed a compounding application dated June 29, 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 June 29, 2018 furnished with the compounding application that the applicant was not under investigation by Directorate of Enforcement (DoE) as on the date of the application. However, the company was one of the 116 companies who have not been able to complete the submission of requisite documents to enable us to take on record the filing of FC GPR and from whom we had failed to receive any reply despite follow up and hence were referred to Directorate of Enforcement vide letter dated May 10, 2016. Accordingly, Reserve Bank vide letter Che.FED.FID./ 375 /25.27.999/2017-18 dated July 26, 2018 had sought comments from DoE to be furnished within 30 days as to



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whether it had objection, if any, in terms of the proviso to Rule 8(2) to Compounding Rules to compounding the contraventions sought to be compounded by the applicant. A reminder dated August 31, 2018 was issued to DoE in this regard giving them 7 days to respond. DoE has not furnished any response whatsoever. Accordingly the above contraventions which are being compounded in this order is without prejudice to any other action which may be taken by any authority under the extant laws.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated September 19, 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 September 24, 2018 during which Smt Shanti Balamurugan, Chief Financial Officer, Arjun Group represented the applicant. The authorized representative of the applicant admitted the contraventions 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. In view of the above, they requested Reserve Bank to take a lenient view in the matter. 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 submission 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 ₹ 2,91,25,704.52 with duration of contravention ranging from three days to two years 11 months six days approximately; and



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(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. The contravention relates to an amount of ₹ 1,32,40,395.00 with the duration of contravention ranging from one day to two years nine months 15 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 ₹ 81,795/- (Rupees eighty one thousand seven hundred and ninety 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 ₹81,795/- (Rupees eighty one thousand seven hundred and ninety 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 fifth day of September, 2018.

Sd/-



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Dr. K Balu
Chief General Manager