



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

J. K. Pandey
Chief General Manager

Date: September 18, 2018

C.A. No. 762/2018

In the matter of

Nilgai Foods Private Limited
418, Dalamal Towers
Free Press Journal Road
Nariman Point
Mumbai – 400 021
(Applicant)

In exercise of the powers conferred under section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

1. The applicant has filed the compounding application dated April 17, 2018, (received at the Reserve Bank of India on April 20, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India and (iii) delay in filing 'Annual



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Return on Foreign Liabilities and Assets' (FLA Returns), in terms of paragraphs 9 (1) (A), 9 (1) (B) and 9 (2) 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 3, 2000 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 26, 2011, under the Companies Act, 1956 as Nilgai Foods Private Limited. Its main activities are to carry on in India and abroad, the business of establishing, maintaining and operating restaurants, cafes and eating houses, including manufacturing, importing, exporting, packaging, buying and serving food, beverages and edible items of all kinds.



3. The applicant received foreign inward remittances from Arjun Gadkari, United Kingdom; Nilgai Enterprises Limited, Mauritius and Vilas Gadkari, Sri Lanka towards equity / preference share capital and reported the same to the Reserve Bank of India as indicated in the table.

Sr. No.	Amount received in INR	Date of receipt	Date of reporting	Delay
1	1,11,22,457.00	04/05/2011	30/08/2011	2M 27D
2	1,100.00	07/10/2011	08/02/2012	3M 2D
3	92,39,700.00	17/10/2011	16/11/2011	NO
4	4,87,50,000.00	04/11/2011	28/11/2011	NO
5	3,66,80,000.00	09/01/2012	28/01/2012	NO
6	10,500.00	14/02/2012	02/03/2012	NO
7	40,06,831.93	19/06/2013	10/07/2013	NO
8	49,97,579.60	04/03/2014	04/07/2014	2M 30D
9	36,19,484.86	14/03/2014	04/07/2014	2M 20D
10	1,05,28,000.00	13/10/2016	20/01/2017	2M 8D
11	26,68,800.00	16/11/2016	20/01/2017	1M 5D
12	30,25,350.00	22/11/2016	20/01/2017	29D
13	20,05,500.00	15/12/2016	24/01/2017	10D
14	79,58,240.64	29/06/2017	14/07/2017	NO
15	63,37,492.96	28/07/2017	18/08/2017	NO
16	94,90,500.00	20/12/2017	10/01/2018	NO
17	50,16,800.00	24/01/2018	31/01/2018	NO
18	63,98,000.00	26/03/2018	25/04/2018	NO
19	25,64,400.00	05/04/2018	26/04/2018	NO
20	65,92,000.00	26/04/2018	14/05/2018	NO
21	66,85,000.00	17/05/2018	30/05/2018	NO
22	26,45,600.00	05/06/2018	06/07/2018	NO
Total	19,03,43,337.00			

The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 10 days to 03 Months 02 Days, approximately, in respect of remittances listed at serial no. 1, 2 and 8 to 13 above. 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 foreign inward remittances 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

Sr. No.	No. of shares	FV in INR	Premium in INR	Amount involved in INR	Date of allotment	Date of filing	Delay
1	1112245	10	0.00	1,11,22,450.00	07/09/2011	07/09/2011	NO
2	110	10	0.00	1,100.00	24/01/2012	14/02/2012	NO
3	9466970	10	0.00	9,46,69,700.00	24/03/2012	16/04/2012	NO
4	947	10	0.00	9,470.00	24/03/2012	16/04/2012	NO
5	400683	10	0.00	40,06,830.00	11/12/2013	11/02/2014	1M
6	793468	10	0.86	86,17,062.48	09/06/2014	08/07/2014	NO
7	969429	10	0.86	1,05,27,998.94	13/10/2016	03/03/2017	3M 19D
8	245745	10	0.86	26,68,790.70	16/11/2016	03/03/2017	2M 16D
9	278577	10	0.86	30,25,346.22	23/11/2016	06/03/2017	2M 12D
10	184668	10	0.86	20,05,494.48	15/12/2016	06/03/2017	1M 20D
11	732803	10	0.86	79,58,240.64	29/06/2017	29/07/2017	NO
12	583562	10	0.86	63,37,483.32	29/07/2017	31/08/2017	3D
13	949050	10	0.00	94,90,500.00	20/12/2017	18/01/2018	NO
14	501680	10	0.00	50,16,800.00	24/01/2018	23/02/2018	NO
15	639800	10	0.00	63,98,000.00	26/03/2018	25/04/2018	NO
16	256440	10	0.00	25,64,400.00	05/04/2018	04/05/2018	NO
17	659200	10	0.00	65,92,000.00	26/04/2018	25/05/2018	NO
18	668500	10	0.00	66,85,000.00	17/05/2018	16/06/2018	NO
19	264560	10	0.00	26,45,600.00	05/06/2018	06/07/2018	NO
			Total	19,03,42,267.00			

The applicant filed form FC-GPR as indicated at serial No. 5, 7 to 10 and 12 above with a delay ranging from 3 Days to 3 Months 19 Days, approximately. 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.



5. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Year 2011-12 on or before July 15. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15th day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

6. The applicant was given an opportunity for personal hearing vide e-mail dated August 8, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on August 10, 2018, during which Ms. Varsha Shukla, Company Secretary and Ms. Divya Bahl, Legal Advisor represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

7. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. 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 the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.3,79,68,271.46 (Rupees Three Crore Seventy Nine Lakh Sixty Eight



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Thousand Two Hundred Seventy One and Forty Six Paise Only) and the delay ranging from 10 Days to 3 Months 2 Days, approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.2,85,71,943.66 (Rupees Two Crore Eighty Five Lakh Seventy One Thousand Nine Hundred Forty Three and Sixty Six Paise Only) and the delay ranging from 3 Days to 3 Months 19 Days, approximately.

(c) Paragraph 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to delayed filing of Annual Return on Foreign Liabilities and Assets (FLA) for the Financial Year 2011-12.

8. It has been declared in the compounding application dated April 17, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has further been stated in the declaration, which 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. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. 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.

9. 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



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compounded and I consider that an amount of Rs.77,825/- (Rupees Seventy Seven Thousand Eight Hundred Twenty Five Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1) (A), 9(1) (B) and 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.77,825/- (Rupees Seventy Seven Thousand Eight Hundred Twenty Five Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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.

11. The above order is passed only in respect of contraventions of para 9(1) (A), 9(1) (B) and 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: September 18, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)

Chief General Manager