



In the

Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

H. Thangzaman
Chief General Manager

Date: October 31, 2018

C.A.073/2018

In the matter of

M/s Fresco Global Private Limited
2, Corporation Place, Society Cinema Building, 2nd Floor
Kolkata 700 087
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated August 09, 2018 (received at Reserve Bank on August 13, 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 is for delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India beyond the stipulated 30



days in terms of Paragraph 9(1)(B) to 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 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, M/s Fresco Global Pvt. Ltd., was incorporated under Companies Act, 1956, on December 14, 2011 and is in the business of manufacture of apparels.

3. The applicant had received ten foreign inward remittances from six foreign investors for subscription to equity shares under the Automatic Route and reported to Reserve Bank in form ARF along with documents prescribed therein, without any contravention in terms of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB.

4. The applicant allotted equity shares in fifteen tranches to foreign investors within the stipulated period from receipt of foreign inward remittances, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB.

5. The applicant allotted equity shares during the period of 2013-2017 in eight separate tranches as detailed below:

Table: Allotment of shares and reporting of FCGPR

S. No.	Inflow (INR)	Amount for which shares have been issued	Date of inflow	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	1,08,80,912.00	1,08,82,000.00	10-May-13	21-Oct-13	29-Oct-13	0
2	63,29,734.00	63,29,700.00	11-Sep-13	10-Feb-14	20-Mar-14	8
3	61,57,383.00	61,58,880.00	12-Dec-13	10-Feb-14	20-Mar-14	8
4	29,99,100.00	29,99,500.00	26-Mar-14	31-Mar-14	02-Sep-14	125
5	59,82,803.00	59,81,500.00	27-Mar-14	31-Mar-14	02-Sep-14	125
6	3,10,00,000.00	3,09,95,250.00	15-May-15	18-May-15	10-Jul-15	23
7	3,08,27,226.24	3,09,95,250.00	15-May-15	18-May-15	10-Jul-15	23
8	1,87,337.28					
9	32,50,00,000.00	32,50,00,000.00	20-Jun-17	20-Jun-17	26-Jul-17	6
10	49,000.00	49,000.00				



In terms of paragraph 9(1)(B) 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 persons outside India. However, the applicant reported seven out of the eight allotment of shares (in form FC-GPR) to the Reserve Bank of India, with a delay ranging from 6 days to 125 days, beyond the stipulated period of 30 days.

6. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.551/03.40.200/2018-19 dated October 26, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Mr. Mukesh Thakur, appeared for personal hearing on October 26, 2018. The representative of the applicant admitted the contraventions as stated in para 5 of this Order. During the personal hearing, it was submitted that the company was not aware of the requirement for filing of FC-GPR. In view of this, the company requested to take a lenient view in the matter.

7. It has been declared in the compounding application dated August 09, 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 been declared in the declaration 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. 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. The contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.



8. I have given careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened provisions of paragraph 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of ₹ 40,85,09,080 and the period of delay, rounded off to the next month, ranges from one month to five months.

9. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances which led to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of ₹ 31,792.00 (Rupees Thirty One Thousand Seven Hundred and Ninety Two only) will meet the end of justice.

10. Accordingly, I compound the admitted contravention viz. Paragraph 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount ₹ 31,792.00 (Rupees Thirty One Thousand Seven Hundred and Ninety Two only) which are to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

11. The application is disposed off accordingly.

Dated, this Thirty First day of October, 2018

Sd/-
(H.Thangzaman)

Chief General Manager