



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Fort, Mumbai - 400 001

Present

Meenakshi Ganju
Deputy General Manager

Date: October 31, 2018
C.A. 4701/2018

In the matter of

Parijat Industries (I) Pvt. Limited
Registered Office: M-77, M-block Market, Greater Kailash Part-2,
New Delhi-110 048

(Applicant)

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

Order

The applicant has filed the application dated May 9, 2018 (received in the Reserve Bank of India on May 11, 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 relate to delayed receipt of share certificates for the investment done in overseas entity i.e. beyond the prescribed period of 6 months in contravention of Regulation 15(i) of FEMA 120/RB-2004 dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB). Further, the applicant disinvested (with write off AED 101055.32) within one year of equity remittance to the JV/WOS in contravention of Regulation 16(1)(v) of FEMA 120/2004-RB.

2. The relevant facts of the case are as follows:



2.1 The applicant, a private limited company incorporated as Triumph Pesticides (Bombay) Private Limited (CIN U24219DL1995PTC161189), under the Companies Act, 1956, on May 17, 1995 and its name was changed to Parijat Industries (India) Private Limited on July 12, 2006. The applicant is engaged in the business of fertilizers, manures, dips, sprays, vermifuges, fungicides, insecticides, germicides, pesticides, weedicides and all other agro chemicals, medicines etc.

2.2. The applicant company had an overseas wholly owned subsidiary (WOS) viz. Parijat Industries FZE in UAE. In respect of the remittance of AED 150,000 sent on April 16, 2016 to this WOS towards equity, the applicant company received the share certificate only on October 27, 2016, i.e. beyond the prescribed period of 6 months, thereby contravening Regulation 15(i) of FEMA 120/2004-RB. Further, disinvestment of the aforesaid WOS was undertaken on November 27, 2016, which involved write-off of AED 101055.32, within one year from the date of ODI in contravention of Regulation 16(1)(v) of FEMA 120/2004-RB.

3. The following are the observed contraventions:

3.1 Whereas Regulation 15(i) of FEMA 120/2004, states that an Indian Party, which has acquired foreign security in terms of the Regulations in Part- I, shall -receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised.

3.2 Whereas Regulation 16(1)(v) of FEMA 120/2004, states that an Indian Party may transfer, by way of sale to another Indian Party which complies with the provisions of Regulation 6, or to a person resident outside India, any share or security held by it in a JV or WOS outside India subject to among other conditions, that -the overseas concern has been in operation for at least one full year and the Annual Performance Report together with the audited accounts for that year has been submitted to the Reserve Bank;

4. The applicant was given an opportunity for personal hearing vide letter No.FE.CO.CEFA.No./2286/15.20.67/2018-19 dated October 19, 2018 for further



submission in person and/ or producing documents, if any, in support of the application. Shri Anil Sachdeva, General Manager, Finance and Ms. Apoorva Choubey, Head,

Regulatory Reporting & MIS, represented the applicant company during the personal hearing held on October 29, 2018. The representatives of the applicant submitted that the contraventions on the part of the applicant company were unintentional and arose out of lack of knowledge about the legal requirements associated with the transaction, which the applicant company had entered with an intention of expanding its business abroad. The representatives of the applicant company also requested for a lenient view on the contraventions, in view of the fact that the promoters had approached the transaction only from a technical background and could not understand the 'legal complexities' of the matter. The application for compounding was considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.

5. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA120/2004-RB dated July 7, 2004:

(i) Regulation 15(i)-The amount of contravention in INR, as declared by the applicant is ₹27,24,000/- approximately and the period of contravention taken is 10 days from the date of such remittance to the date of submission of proof of investment.

(ii) Regulation 16(1)(v)-The amount of contravention in INR, as declared by the applicant is ₹27,24,000/- approximately and the period of contravention is from December 8, 2016 (the date of winding up of the WOS) till September 25, 2018 (the date of regularisation).

6. It has been declared in the compounding application dated May 9, 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 dated May 9, 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.

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 contravention is to be compounded and I consider that payment of an amount of ₹74,982/- (Rupees Seventy Four Thousand Nine Hundred and Eighty Two only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of the Regulations 15(i) and 16(1)(v) of Notification No. FEMA 120/2004-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 ₹74,982/- (Rupees Seventy Four Thousand Nine Hundred and Eighty Two only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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.

The application is disposed accordingly.

Dated this day the thirty first day of October 2018

Sd/-

(Meenakshi Ganju)



Deputy General Manager

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Parijat Industries (I) Pvt. Limited
CA No: 4701/2018**