



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 : October 12, 2018
C.A.818/2018

In the matter of

M/s. Arkay Glenrock Private Limited.,
7/23B, Nilakottai Road, Near Sempatti,
Pachamalayankottai-624707,
Dindigul Dist

(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 23, 2018 (received at Reserve Bank on August 02, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in submission of Form FC-GPR on allotment of shares with Reserve Bank, in terms of 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.

2. The relevant facts of the case are as follows: The applicant company was incorporated on March 03, 2000 under the provisions of the Companies Act, 1956 (Registration No. U45309TN1999PTC041997) and is engaged in business of quarrying of stone, sand and clay. The company has received 12 foreign inward remittances between 20.09.1999 and 13.09.2005 amounting to ₹ 77,80,999.00 from i) M/s Glenpost Ltd., UK ii) Mr. David Kilpatrick, UK iii) Dr. R Byravan, UK iv) Mrs. N Janaki, UK towards subscription to equity shares and reported the same to the Reserve Bank. Against the above remittances the company allotted shares on two occasions between 13.04.2000 and 21.09.2005 amounting to ₹ 77,50,000.00 which have been acknowledged by Reserve Bank.

3. Subsequently the company allotted 340000 equity shares towards conversion of External Commercial Borrowing and 10000 equity shares as Bonus 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	340000	10	1,02,00,000.00	31.03.2011	09.01.2014
2	5000	10	50,000.00	31.03.2011	28.07.2011
3	5000	10	50,000.00	31.03.2011	28.07.2011

The applicant filed form FC-GPRs as indicated above with delay ranging from two months 27 days to two years eight months eight days approximately beyond the prescribed limit in respect of the allotments. 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 June 13, 2018. The applicant has filed a compounding application dated July 23, 2018. 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 July 23, 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 05, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide mail dated October 08, 2018 has informed that they would not be able to attend the personal hearing and has requested to accept his absence. The applicant, in the compounding application, had admitted the contraventions as stated in para 3 above for which compounding has been sought. It had been submitted that the delay was 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) 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



M/s. Arkay Glenrock Private Limited.–C.A.818/2018

to persons resident outside India and the contravention relates to an amount of ₹ 1,03,00,000.00 with the duration of contravention ranging from two months 27 days to two years eight months eight 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 ₹ 1,47,750/- (Rupees one lakh forty seven thousand seven hundred and fifty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraph 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 ₹ 1,47,750/- (Rupees one lakh forty seven thousand seven hundred and fifty 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 Twelfth day of October, 2018.

Sd/-

Dr. K Balu

Chief General Manager