



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.798/2018

In the matter of

M/s. Whale Enterprise Pvt Ltd.,
Door No.1/1D, Vilankurichi Road,
Near Senthottam, Kalapatti,
Coimbatore-641048

(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 08, 2018 (received at Reserve Bank on June 14, 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 and (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank in terms of Paragraph 9 (1) A and Paragraph 9 (1) B respectively, of



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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 February 22, 2011 under the provisions of the Companies Act, 1956 (Registration No. U34203TZ2011PTC016775) and is engaged in business of manufacture of motor vehicles n.e.c. The applicant received foreign inward remittances from M/s Whale Tankers Ltd., UK 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	99,900.00	14.04.2011	17.06.2011
2	9,00,000.00	18.07.2011	15.03.2012
3	26,97,335.80	02.07.2013	30.07.2013
4	60,70,680.00	31.07.2014	22.08.2014
5	1,00,47,027.59	16.12.2016	19.01.2017
6	1,35,31,170.00	01.02.2018	22.02.2018

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from three days to six months 27 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. Nos. 1 ,2 and 5. 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.

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	999	100	99,900.00	22.02.2011	17.10.2011
2	9000	100	9,00,000.00	02.01.2012	07.06.2012



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3	26960	100	26,96,000.00	02.08.2013	05.09.2013
4	60700	100	60,70,000.00	21.01.2015	20.02.2015
5	100470	100	1,00,47,000.00	01.02.2017	28.03.2017
6	135311	100	1,35,31,100.00	23.02.2018	15.03.2018

The applicant filed the form FC-GPRs as indicated above with delay ranging from four days to six months 25 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 1 to 3 and 5. 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 has filed a suo motu compounding application dated June 08, 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 08, 2018 furnished with the compounding application that the applicant was not 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 additional documents, if any, in support of the application. The applicant appeared for the personal hearing on October 11, 2018 during which Shri G Vasudevan, Practicing Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 and 3 above committed by the



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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 ₹ 1,10,46,927.59 with duration of contravention ranging from three days to six months 27 days approximately; and

(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 ₹ 1,37,42,900.00 with the duration of contravention ranging from four days to six months 25 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 **₹29,950/-** (Rupees twenty nine thousand nine hundred and fifty only) will meet the ends of justice.



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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 **₹29,950/-** (Rupees twenty nine thousand nine 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