



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Gopal B Terdal
Assistant General Manager

Date: October 12, 2018
C.A. BGL 300/2018

In the matter of

M/s Freshtohome Foods Private Limited
Krishik Sarvodaya Foundation Building
#15, Golf Avenue Road, Off Old Airport Road
Bengaluru 560008
(Applicant)

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

ORDER

The applicant has filed a compounding application dated June 06, 2018, received at this office of Reserve Bank of India, Bengaluru, on June 08, 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 refund of excess share application money to the foreign investors, persons resident outside India, beyond 180 days of receipt of the inward remittances, in terms of paragraph 8 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 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 Freshtohome Foods Private Limited, was originally incorporated as M/s Johnnypag Motors Private Limited, on June 10, 2011, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. Subsequently, name of the company has changed to M/s Freshtohome Foods Private Limited, with effect from May 26, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of building and providing IT mobile and web based software solutions and services.

3. The company had received foreign inward remittances to the tune of Rs.46,20,60,018.31 in twelve installments from the foreign investor M/s Freshtohome Pte Limited, Singapore. The Company allotted equity shares to the foreign investor in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, after allocation of shares, there was excess share application money, which the company refunded to the foreign investor with a delay, in certain instances. Below mentioned are the instances where company has refunded the excess share application money beyond 180 days, with the approval of RBI.

- i) The company had received inward remittances of **Rs.1,02,02,459.10**, and **Rs.1,32,92,005.90**, amounting to **Rs.2,34,94,465.00**, on January 19, 2017 and March 07, 2017, respectively, from M/s Freshtohome Pte Limited, Singapore. The company had allotted shares worth **Rs.2,34,88,900.00**, on March 19, 2017 and the excess share application money of **Rs.5,565.00**, was refunded on June 04, 2018, to the non-resident investor with prior approval from RBI. The company was given approval vide Reserve Bank of India's letter FE.BG.FID.No.4487/21.09.873/2017-18 dated May 21, 2018. The amount of contravention is **Rs.5,565.00**, and the period of delay is 9 months and 1 day;
- ii) The company had received an inward remittance of **Rs.1,28,04,079.10**, and **Rs.6,45,58,063.20**, amounting to **Rs.7,7362,142.30**, on May 04, 2017 and July 03, 2017, respectively, from M/s Freshtohome Pte Limited,



Singapore. The company had allotted shares worth **Rs.7,73,51,280.00**, on July 03, 2017, and the excess share application money of **Rs.10,862.30**, was refunded on June 04, 2018, to the non-resident investor with prior approval from RBI. The company was given approval vide Reserve Bank of India's letter FE.BG.FID.No.4489 /21.09.873/2017-18 dated May 21, 2018. The amount of contravention is **Rs.10,862.30**, and the period of delay is 5 months and 5 days.

Whereas, in terms of Paragraph 8 (read with AP (Dir Series) Circular No. 20 dated December 14, 2007) of Schedule 1 to Notification no. FEMA 20/2000- RB dated May 3, 2000, and as amended from time to time, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1039 /22.09.873/2018-19 dated October 05, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Shahnawaz Kadavil, Director, and Mr. B M Tambakad, Chartered Accountant, who appeared for the personal hearing on October 09, 2018, admitted the contraventions as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that as the contraventions were not intentional or with a malafide intention and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 personal hearing and thereafter.



5. I have given my 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 the following FEMA provisions issued in terms of:

(a) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.16,427.30**, and the period of contravention ranges from five months and five days to nine months and one day.

6. It has been declared in the compounding application dated June 06, 2018, 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 undertaking, 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 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.

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 are



to be compounded and I consider that an amount of **Rs.890.00 (Rupees Eight Hundred and Ninety only)** will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 8 of Schedule I 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 **Rs.890.00 (Rupees Eight Hundred and Ninety only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru - 560001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Bengaluru 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, the Twelfth day of October 2018.

Sd/-

(Gopal B Terdal)
Assistant General Manager