



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri J. K. Pandey
Chief General Manager

Date: October 12, 2018

C.A. No. 777/2018

In the matter of

Vista Packaging Private Limited
A-10, Prasad Industrial Estate
Kaman road, Sativali
Vasai (East), Dist. Palghar – 401 208

(Applicant)

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

Order

1. The applicant has filed the compounding application dated June 14, 2018, (received at the Reserve Bank on June 19, 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 are (i) neither the equity instruments were issued, nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of the inward remittance (ii) delay in reporting receipt of foreign inward remittance towards subscription to equity (iii) delay in submission of Form FC-GPR to the Reserve Bank



after issue of shares to a person resident outside India and (iv) delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns), in terms of paragraphs 8, 9(1) (A), 9(1) (B) and 9(2) respectively, of 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 3, 2000 (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 March 23, 2006, under the Companies Act, 1956 as Vista Packaging Private Limited. Its main activities are (i) to carry on the business as manufacturers, buyers, sellers, merchants, commission agents, importers, exporters and dealers in cast polypropylene, CPP, BOPP, PET, METPET, PE, Aluminium foils, Nylon and any other films and flexible packaging laminates based on variety of packaging films such as CPP, BOPP, PET, METPET, PE, Aluminium foils, Nylon and any other such materials and different grades of polymers / granules. (ii) to carry on business as manufacturers, buyers, merchants, commission agents, importers, exporters or otherwise dealers in pulp, pulp of wood or other fibrous cellulosic material, waste and scrap of paper of all kinds including art paper, pulp or of paper or of paper board and papers of all kinds including art paper, printing paper, writing paper, packing paper product and packing materials such as paper bags, cartons and boxes and packing of food items, goods of plastics, stoppers, lids, caps and other closures of plastics and packing and wrapping paper.



3. The applicant received foreign inward remittance from Goldlinks Investments Limited, Republic of Mauritius, towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. No.	Amount received in INR	Date of receipt	Date of reporting	Delay under para 9 (1) (A)	Date of allotment	Delay under Para 8
1	5,54,13,534.00	02-08-2006	03-04-2018	11Y 7M 2D	31-03-2007	NO
2	2,36,84,000.00	27-03-2008	03-04-2018	9Y 11M 5D	31-03-2009	6M 5D
Total	7,90,97,534.00					

The applicant reported receipt of remittances to the Reserve Bank of India on dates indicated above with a delay ranging from 9 Years 11 Months 5 Days to 11 Years 7 Months 2 Days, approximately, in respect of remittance recorded at serial no. 1 and 2 above, beyond the stipulated time of 30 days. Whereas, in terms of Paragraph 9 (1) (A) of Schedule 1 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No.	No. of shares	FV in INR	Premium in INR	Amount in INR	Date of allotment	Date of filing	Delay
1	900000	10	0	90,00,000.00	31-03-2007	03-04-2018	10Y 11M 1D
2	464135	100	0	4,64,13,500.00	31-03-2007	03-04-2018	10Y 11M 1D
3	2368400	10	0	2,36,84,000.00	31-03-2009	03-04-2018	8Y 11M 1D
			Total	7,90,97,500.00			

The applicant filed form FC-GPRs as indicated above with a delay ranging from 8 Years 11 Months 1 Day to 10 Years 11 Months 1 Day, approximately, beyond the prescribed limit in respect of allotment indicated at Sr. No. 1 to 3, above. Whereas, in terms of Paragraph 9(1) (B) of 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 person resident outside India.



5. In respect of remittances amounting to Rs.2,36,84,000.00 (Rupees Two Crore Thirty Six Lakh Eighty Four Thousand Only), indicated at serial no. 2 in para 3 above, the company allotted shares after 180 days of receipt of investment with a delay of 6 Months 5 Days, approximately. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, 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. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of security by A person resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November 2007 in the official Gazette of the Government of India.

6. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Years 2007-08 to 2016-17. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15th day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

7. The applicant was given an opportunity for personal hearing vide e-mail dated October 4, 2018, for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on October 5, 2018, during which Shri F F Rangwala, Director, Shri H. S. Ghia, Chartered Accountant and Ms. Gayatri Sonavane, Chartered Accountant, represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the



contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing 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.

8. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application not refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.2,36,84,000.00 (Rupees Two Crore Thirty Six Lakh Eighty Four Thousand Only) and with the delay of 6 Months 5 Days, approximately.

(b) Paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed in paragraph 3 above. The contravention relates to an amount of Rs.7,90,97,534.00 (Rupees Seven Crore Ninety Lakh Ninety Seven Thousand Five hundred Thirty Four Only) and with a delay ranging from 9 Years 11 Months 5 Days to 11 Years 7 Months 2 Days, approximately.

(c) Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.7,90,97,500.00 (Rupees Seven Crore Ninety lakh Ninety Seven Thousand Five Hundred Only) with a delay ranging from 8 Years 11 Months 1 Day to 10 Years 11 Months 1 Day, approximately.



(d) Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to non-filing of Annual Return on Foreign Liabilities and Assets for the Financial Years 2007-08 to 2016-17.

9. It has been declared in the compounding application dated June 14, 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 June 18, 2018, 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.

10. 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 Rs.24,06,815/- (Rupees Twenty Four Lakh Six Thousand Eight Hundred Fifteen Only) will meet the ends of justice.

11. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 8, 9(1) (A), 9(1) (B) and 9(2) 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 Rs.24,06,815/- (Rupees Twenty Four Lakh Six Thousand Eight Hundred Fifteen Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office,



FED, MRO, CEFA
Vista Packaging Private Limited
CA No. MUM 777/2018

Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 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.

12. The above order is passed only in respect of contraventions of paragraph 8, 9(1) (A), 9(1) (B) and 9(2) of Schedule I to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: October 12, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)

Chief General Manager