



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 R. K. Mahana
General Manager

Date: November 14, 2018

C.A. No. 782/2018

In the matter of

Delicioso Gourmet Foods Private Limited
G-4 8th Floor
Everest Premises Co-op Society
Tardeo, Main Road
Mumbai – 400 034
(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 July 27, 2018, (received at the Reserve Bank of India on August 8, 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) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India, in terms of paragraphs 9 (1) (A) and 9 (1) (B) 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 November 1, 2015, under the Companies Act, 2013 as Delicioso Gourmet Foods Private Limited. Its main activities are to carry on in India or abroad the business and to set up online and offline stores that will help the buyers and sellers effectively reach each other across the globe for the consumer food products, commodities, merchandise, goods and services and to provide web services and enable business to business (B2B) business to consumer (B2C), e-commerce over internet, m-commerce and to carry on the business as merchants, importers, exporters, franchisers, buyers, sellers, marketers, processors, packers, re-packers, movers, preservers, producers, processors, repairers, super marketers and/or distributors, forwarders, wholesalers, retailers, traders, dealers, exchangers, showroom owners, stockists, transporters, warehouses, suppliers, indenters, agents, sub-agents, representatives, commission agents, adatias, franchisers, brokers in all kinds of food products, household provisions, agricultural products, farms produces, dairy products and their various by-products and preparations of any nature or description whatsoever including processing and packaging whether dried or frozen, canned or fresh or in any other form such as packs of food grains, consumer food items and other food products like precooked foods, canned foods, papads, farsans, frozen foods, dehydrated foods, preserved foods, fast foods, ready to eat food, cream, cheese, butter, biscuits, breads, cakes, pastries, confectionery, sweets, milk products, farsan, snacks, chocolates, toffees, breakfast foods, protein foods, dietetic products, strained baby foods, instant foods, cereal products, liquids, drinks, beverages, juices, jams, jelly, squashes, pickles, sausages, concentrates, extracts, essences, flavours, syrups, sarbats, flavoured drinks, health and diet drinks and extruded foods.



3. The applicant received foreign inward remittances from Maximus Technology Services Limited, Hong Kong; Yaron Dishon, Israel; Zeev Dishon, Israel; Lidan Consulting and Developing Systems Limited, Israel; Jeffrey Douglas Jaeger, USA towards equity / compulsorily convertible preference share / compulsorily convertible debentures and reported the same to the Reserve Bank of India as indicated in the table.

Sr. No.	Amount received in INR	Date of receipt	Date of reporting	Delay
1	30,75,267.75	15-12-2015	19-08-2016	7M 5D
2	18,88,600.00	21-01-2016	22-07-2016	5M 1D
3	16,62,363.00	18-02-2016	22-07-2016	4M 4D
4	11,19,150.00	11-07-2016	21-07-2016	No
5	6,65,400.00	10-08-2016	14-09-2016	5D
6	9,82,935.00	07-10-2016	28-10-2016	No
7	33,01,152.00	27-04-2018	24-05-2018	No
8	1,31,98,032.00	27-04-2018	24-05-2018	No
9	32,88,000.00	02-05-2018	24-05-2018	No
Total	2,91,80,899.75			

The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 5 Days to 7 Months 5 Days, approximately, in respect of remittances listed at serial no. 1 to 3 and 5 above. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing equity / compulsorily convertible preference share / compulsorily convertible debentures in accordance with these Regulations should report foreign inward remittances 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 / compulsorily convertible preference share / compulsorily convertible debentures and filed FC-GPR as indicated in the table



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Sr. no	No. of shares	FV in INR	Premium in INR	Amount involved in INR	Date of allotment	Date of filing	Delay
1	3481	10	873.44	30,75,254.64	30-12-2015	10-07-2016	5M 11D
2	4019	10	873.54	35,50,947.26	18-04-2016	11-09-2017	1Y 3M 25D
3	1266	10	874.00	11,19,144.00	05-08-2016	30-10-2016	1M 25D
4	752	10	874.00	6,64,768.00	06-10-2016	30-10-2016	No
5	1111	10	875.09	9,83,334.99	29-10-2016	30-10-2016	No
6	500	100	6476.00	32,88,000.00	15-06-2018	11-07-2018	No
7	2007	100	6476.00	1,31,98,032.00	15-06-2018	11-07-2018	No
8	500	100	6476.00	32,88,000.00	15-06-2018	11-07-2018	No
			Total	2,91,67,480.89			

The applicant filed form FC-GPR as indicated at serial No. 1 to 3 above with a delay ranging from 1 Month 25 Days to 1 Year 3 Months 25 Days, approximately. 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. The applicant was given an opportunity for personal hearing vide e-mail dated October 30, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for personal hearing on November 1, 2018, during which Ms Nidhi Das, Consultant and Shri Varun Kaka, Consultant represented the applicant in the cabin of Shri R. K. Mahana, General Manager, Mumbai Regional Office. Representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.



6. 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 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.72,91,630.75 (Rupees Seventy Two Lakh Ninety One Thousand Six Hundred Thirty and Seventy Five Paise Only) and the delay ranges from 5 Days to 7 Months 5 Days, approximately.

(b) 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 of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.77,45,345.90 (Rupees Seventy Seven Lakh Forty Five Thousand Three Hundred Forty Five and Ninety Paise Only) and the delay ranges from 1 Month 25 Days to 1 Year 3 Months 25 Days, approximately.

7. It has been declared in the compounding application dated July 27, 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 further been stated in the declaration, 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.



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8. 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.29,055/- (Rupees Twenty Nine Thousand Fifty Five Only) will meet the ends of justice.

9. 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 as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.29,055/- (Rupees Twenty Nine Thousand Fifty Five Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, 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.



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10. The above order is passed only in respect of contraventions of para 9 (1) (A) and 9 (1) (B) of Schedule 1 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: November 14, 2018.

Compounding Authority

**Sd/-
(R. K. Mahana)
General Manager**