



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Arundhati Mech
Regional Director

Date : March 10, 2017
C.A.607/2016

In the matter of

M/s. Australian Foods India Pvt Ltd.
(Formerly Cookie Man Foods India Pvt Ltd.)
22-23, SIDCO Industrial Estate,
Ambattur,
Chennai-600058

(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 November 15, 2016 (received at Reserve Bank on November 17, 2016) 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 (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (iii) delay in allotment of shares to the overseas investor in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 8 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 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 November 12, 1998 under the provisions of the Companies Act, 1956 (Registration No. U15499TN1998PTC041414) and is engaged in Business of manufacture of bakery products. The applicant received foreign inward remittances from (i) Mr. Richard Hill, Australia (ii) Mr. John Lynch, USA (iii) Mr. Vappalak A Ravindran, UK (iv) M/s.Cookie Man (Mauritius) Ltd., Mauritius towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	1,16,00,000.00	01.12.2000	12.02.2001
2	9,46,002.19	31.10.2001	02.06.2003
3	38,50,392.98	15.01.2002	02.06.2003
4	2,04,913.00	27.11.2002	06.06.2003
5	44,05,182.00	27.11.2002	06.06.2003
6	3,14,403.26	07.11.2003	19.12.2003
7	16,00,000.00	16.01.2004	01.06.2015
8	19,10,000.00	06.07.2004	20.08.2004
9	28,07,000.00	26.07.2004	21.09.2004
10	31,85,000.00	28.10.2004	30.11.2004
11	4,62,000.00	08.10.2004	30.11.2004
12	14,47,000.00	01.11.2004	12.08.2005
13	55,89,190.00	30.03.2005	12.08.2005
14	56,36,797.00	29.03.2005	12.08.2005
15	57,41,000.00	28.03.2005	12.08.2005
16	14,40,721.00	20.06.2005	22.11.2006
17	14,35,000.00	29.07.2005	22.11.2006



18	14,35,000.00	29.07.2005	22.11.2006
19	13,97,300.00	30.07.2005	22.11.2006
20	13,97,298.00	21.11.2005	22.11.2006
21	7,21,623.05	22.11.2005	22.11.2006
22	4,18,59,249.00	30.10.2006	01.12.2006
23	1,45,75,169.00	28.08.2007	25.09.2007
24	1,05,40,381.00	01.01.2008	23.11.2009
25	86,70,908.00	08.04.2008	23.11.2009
26	80,73,092.00	16.04.2008	23.11.2009
27	1,15,46,768.43	30.03.2009	25.02.2010
28	1,10,58,075.00	04.05.2009	25.02.2010

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above and with delay ranging from two days to 11 years three months 16 days approximately beyond the stipulated time of 30 days in respect of the remittances except the remittance at Sr. No.23. 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 company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of shares/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	1160000	10	1,16,00,000	15.12.2000	12.02.2001
2	479000	10	47,90,000	02.05.2003	02.06.2003
3	368800	10	46,10,000	20.05.2003	06.06.2003
4	31440	10	3,14,400	11.03.2004	12.04.2004
5	347332	10	52,09,980	26.03.2005	01.06.2015
	190160	10	47,54,000		
6	57880	10	14,47,000	31.03.2005	12.08.2005
	339328	10	1,69,66,400		
7	56886	10	28,44,300	23.11.2006	17.12.2007
8	865131	10	4,32,56,550	28.03.2007	31.12.2007
9	837185	10	2,51,15,550	24.03.2008	23.11.2009
10	558334	10	1,67,38,853	30.03.2009	23.11.2009
11	2260484	10	2,26,04,840	15.09.2009	25.02.2010



The applicant filed the form FC-GPR as indicated above with delay ranging from one day to 10 years one month six days approximately beyond the prescribed limit of 30 days in respect of the allotments except the allotment at Sr. No. 3. 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. Against three remittances received on 28.08.2007, 08.04.2008 and 16.04.2008 amounting to ₹ 3,13,19,169/- the company allotted shares on 24.03.2008 and 30.03.2009 with delay ranging from 25 days to five months 22 days beyond the stipulated period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 06, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on March 10, 2017 during which Shri P.C Sasikumar, Whole Time Director of the Company, and Shri M.Damodaran, Practising Company Secretary, M.Damodaran & Associates represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 to 4 above committed by the 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 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 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 ₹ 14,92,74,295.91 and the duration ranging from two days to 11 years three months 16 days approximately;
- (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 ₹ 15,56,41,873/- and the duration of contravention ranging from one day to 10 years one month six days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares to the overseas investor without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 3,13,19,169 /- and the duration of contravention ranging from 25 days to five months 22 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 ₹ 7,04,538/- (Rupees seven lakh four thousand five hundred and thirty eight 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, 9 (1) B and 8 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 ₹ 7,04,538/- (Rupees seven lakh four thousand five hundred and thirty eight 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 Tenth day of March, 2017.

Sd/-

Arundhati Mech
Regional Director