



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. Gautam Prasad Borah
Chief General Manager

Date: April 24, 2017

C.A. No. 681/2017

In the matter of

M/s Mavi Business Ventures LLP
(Earlier M/s Harvest Enterprises Limited)
Esperanca, 7th Floor,
Shahid Bhagat Singh Marg,
Colaba,
Mumbai 400 001

(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 February 03, 2017 (received at the Reserve Bank on February 07, 2017) for compounding of contravention 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 and (iii) Issue of ineligible instrument such as convertible debentures, partly paid shares, shares with optionality clause, etc, in terms of paragraph 8, 9(1)(A) and Regulation 2(ii) read with Regulation 5(1) of Schedule I to 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 March 10, 1992 under the Companies Act, 1956 as M/s Jasmine Impex Limited. The name was changed to M/s Mavi Impex Limited on February 23, 2001. Thereafter, the name was changed to M/s Mavi Business Ventures Limited on July 30, 2008. Further the name was changed to M/s Harvest Enterprises Limited on August 07, 2013. Again, the name was changed to M/s Harvest Enterprises LLP on March 26, 2016. Finally the name was changed to M/s Mavi Business Ventures LLP on July 14, 2016. The company is engaged in the business of in India or abroad to promote venture business in the form to buy, sell, acquire, purchase shares or securities, bonds or any kind of securities of Companies or enter as partner into partnership firm or any other body as may be allowed in laws of the country, in India and abroad and to act as trustee, partner, member for such trust, Company, partnership firm or other body and to promote business in matters of inlands and foreign trade, transport, infrastructure, industry and finance and all other economic subjects and to encourage Indian banking, shipping and insurance. The applicant received foreign inward remittance from M/s I-square Global PE Fund, Mauritius, towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. No.	Amount of Foreign Inward remittance (INR)	Date of receipt	Date of reporting to RBI
1.	5,05,80,000.00	18.01.2012	06.03.2012
2.	5,08,00,000.00	28.03.2012	07.04.2012
3.	6,83,76,000.00	20.02.2014	15.03.2014
4.	6,48,89,000.00	09.06.2014	13.09.2014
Total	23,46,45,000.00		



The applicant reported receipt of remittances to the Reserve Bank with a delay ranging from 19 days to 2 months and 5 days approximately at serial no. 1 & 4 above. 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 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.

3. It is observed that the company had issued Optionally Convertible Debentures (OCDs) as detailed below.

Sr No	No. of OCDs	Face Value	Amount INR	Date of Allotment	Date of reporting to RBI
1	683	1,00,000	6,83,00,000.00	27.06.2014	14.08.2014
2	648	1,00,000	6,48,00,000.00	07.08.2014	15.09.2014
Total	1,331		13,31,00,000.00		

The company has issued OCDs amounting Rs 13,31,00,000/-. As OCDs are ineligible instruments in terms of Regulation 2(ii) and Sch I of FEMA 20, the company cancelled the allotment of OCDs on January 20, 2015. This is contravention of Regulation 2(ii) read with Regulation 5(1) of FEMA 20/2000-RB, read with A P (DIR) Circular No. 73 dated June 08, 2007. In terms of Regulation 2(ii) of FEMA 20/2000-RB, with effect from May 17, 2007. 'Capital' means equity shares, preference shares, convertible preference shares and convertible debentures. As per Regulation 5(1) of the FEMA 20/2000, with effect from May 17, 2007, a person resident outside India or an entity outside India, may purchase shares or convertible debentures of an Indian Company under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule I.

4. After the cancellation of the allotment of OCDs, the company renegotiated with the foreign investor company and agreed to issue equity shares and approached Reserve Bank for Specific Approval for issuance of equity shares on October 30,



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2015 against the remittances received on February 20 and June 09, 2014. Reserve Bank accorded approval for the same on February 01, 2016. Company issued the shares amounting Rs 13,32,65,000/- on February 22, 2016 with a delay ranging from 10 months 21 days to 1 year 2 months and 10 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.

5. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FED.MRO.CEFA/2016-17 dated March 27, 2017 for further submission in person and/or for producing documents, if any, in support of the application. Company vide their letter dated March 27, 2017 sought exemption from hearing. 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 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



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resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.13,32,65,000/- and the duration of the contravention ranges from 10 months 21 days to 1 year 2 months and 10 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 no. 2 above. The contravention relates to an amount of Rs. 11,54,69,000/- and the delay ranging from 19 days to 2 months and 5 days approximately.

(c) Regulation 2(ii) read with 5(1) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the issue of ineligible instruments and the contravention relates to an amount of Rs. 13,31,00,000/- with a delay ranging from 5 months 13 days to 6 months 23 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 contraventions 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 is to be compounded and I consider that an amount of Rs. 12,55,295/- (Rupees Twelve Lakh Fifty Five Thousand Two Hundred Ninety Five only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of paragraphs 8, 9(1)(A) and Regulation 2(ii) read with Regulation 5(1) 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. 12,55,295/- (Rupees Twelve Lakh Fifty Five Thousand Two Hundred Ninety 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



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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.

9. The above order is passed only in respect of contravention of paragraphs 8, 9(1)(A) and Regulation 2(ii) read with Regulation 5(1) 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.

Date: April 24, 2017

Compounding Authority

Sd/-

(Gautam Prasad Borah)
Chief General Manager