



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 12, 2017

C.A. No. 679/2017

In the matter of

M/s Deesan Cotex Pvt. Ltd.
4-A, Vikas Centre,
104, S. V. Road,
Santacruz (West),
Mumbai-400054

(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 January 30, 2017 (received at the Reserve Bank on January 30, 2017) 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 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 February 13, 2007 under the Companies Act, 1956 and is engaged in the business as manufacturers, exporters, importers, distributors, traders, commission agents and dealers in all kinds of Yarns, textiles, readymade garments, stitching, tailoring, processing, spinning, weaving and coverage, cloths, furnishings, fabrics, other textiles, sarees, dresses, outfitters and hosiery goods whether made of cotton, nylon, teryline, silk, artsilk, rayon, wool, linen, jute, hemp, polyester, viscose, yari threat or feather and the business of carpet makers whether made of wool, rayon cotton or jute whether natural or artificial blend of nature or artificial fibres. The applicant received foreign inward remittance from Mr. Ashish Nanda, Dubai, UAE, 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.	50,00,000.00	07.04.2012	16.04.2012
2.	1,00,00,000.00	10.09.2012	09.10.2012
3.	1,00,00,000.00	25.09.2012	09.10.2012
4.	1,00,00,000.00	23.01.2013	22.02.2013
5.	80,00,000.00	30.01.2013	22.02.2013
6.	1,70,00,000.00	01.02.2013	22.02.2013
7.	1,00,00,000.00	05.02.2013	22.02.2013
8.	1,00,00,000.00	12.02.2013	02.03.2013
9.	1,00,00,000.00	19.03.2013	18.04.2013
10.	2,00,00,000.00	21.03.2013	18.04.2013
11.	2,00,00,000.00	14.05.2013	04.06.2013
12.	1,25,00,000.00	25.06.2013	13.11.2013
Total	14,25,00,000.00		

The applicant reported receipt of remittances to the Reserve Bank with a delay of 4 months and 19 days approximately beyond the stipulated time of 30 days in respect



of remittances recorded at serial no.12 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 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/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No.	No. of shares	Face Value (INR)	Premium	Amount (INR)	Date of allotment	Reported to RBI on
1	40,000	10	115	50,00,000.00	03.10.2012	21.11.2012
2	1,60,000	10	115	2,00,00,000.00	07.03.2013	13.06.2013
3	3,20,000	10	115	4,00,00,000.00	15.03.2013	13.06.2013
4	3,60,000	10	115	4,50,00,000.00	16.07.2013	23.07.2013
5	1,60,000	10	115	2,00,00,000.00	08.08.2013	30.01.2014
6	1,00,000	10	115	1,25,00,000.00	06.12.2013	30.01.2014
Total	11,40,000			14,25,00,000.00		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 19 days to 4 months and 23 days approximately beyond the prescribed limit in respect of allotments indicated at serial no.1 to 3, 5 & 6 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.

4. 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. The applicant has sought exemption from hearing vide their letter dated March 27, 2017. 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.



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5. I have given my careful consideration to the documents on record and submissions made by the applicant. 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 remittance towards subscription towards shares as detailed in paragraph 2 above. The contravention relates to an amount of Rs.1,25,00,000/- and the duration is 4 months and 19 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 after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.9,75,00,000/- with a delay ranging from 19 days to 4 months and 23 days approximately.

6. 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 contraventions are to be compounded and I consider that an amount of Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand only) will meet the ends of justice.

7. 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 on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand 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



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mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

8. 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.

Date: April 12, 2017

Compounding Authority

Sd/-

(Gautam Prasad Borah)
Chief General Manager