



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Fort, Mumbai - 400 001

Present

A. O. Basheer
General Manager

Date: May 3, 2017
C.A. 4216 / 2016

In the matter of

Arvind Limited
Naroda Road,
Ahmedabad - 380025

(Applicant)

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

Order

The applicant has filed the application dated November 02, 2016 (received on November 11, 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 of non-submission of Annual Performance Report and disinvestment of stake in Joint Venture (JV) under automatic route which in contravention of Regulation 15 (iii) and Regulation 16 respectively of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000, of the FEMA Notification notified vide Notification No. FEMA.19/RB-2000 dated May 3, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 19/RB-2000).

2. The relevant facts are as under: The applicant, Arvind Limited (formerly The Arvind Mills Limited) incorporated under the Companies Act, 1956, is engaged in textile manufacturing business. The applicant entered into a Joint Venture (JV) with Lauffenmuhle GMBH in the year 1994 by investing DEM 4, 00,000 and acquired 80% equity stake in Big Mill Lauffenmuhle GmbH.



The applicant disinvested its stake in JV by writing-off the investment in the year 2002 under automatic route without prior approval of RBI thus contravening Regulation 16 of Notification No.19/RB-2000. The disinvestment was taken on record on January 7, 2017.

Further APRs for the years 1995 to 2002 were submitted with a delay ranging from 14 years to 21 years thus contravening the provisions of Regulation 15(iii) Notification No. FEMA 19/RB-2000. All the above mentioned APRs have now been taken on record.

3. In terms of Regulation 16 of FEMA Notification No. 19/RB-2000 as amended from time to time, "Save as otherwise provided in the Act or rules or regulations made or directions issued thereunder or with the permission of the Reserve Bank, no Indian Party shall transfer by way of sale to any person whether resident in India or outside India, any share or security held by him in a Joint Venture or Wholly Owned Subsidiary outside India."

Further, in terms of Regulation 15(iii) of Notification No.FEMA.19/RB-2000 as amended from time to time, "An Indian Party which has acquired foreign security in terms of the Regulations in Part I shall - submit to the Reserve Bank every year within 60 days from the date of expiry of the statutory period as prescribed by the respective laws of the host country for finalisation of the audited accounts of the Joint Venture/Wholly Owned Subsidiary outside India or such further period as may be allowed by Reserve Bank, an annual performance report in form APR in respect of each Joint Venture or Wholly Owned Subsidiary outside India set up or acquired by the Indian Party and other reports or documents as may be stipulated by the Reserve Bank."

4. The applicant was given an opportunity for personal hearing vide our letter No. FE.CO.CEFA.No./ 7933 / 15.20.067 / 2016-2017 dated February 03, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant was represented by Shri Umang Desai, Senior Manager, Arvind Limited, Dev Raj Singh, Executive Director, Ernst and Young LLP and Shri Girish Suvarna, Manager, Ernst and Young LLP. During the personal hearing, the representative of the applicant admitted the contraventions committed by the applicant for which they have sought the compounding. The representative of the applicant submitted that contraventions occurred as the applicant was not aware of the procedures and the lapse was unintentional and requested to take a lenient view.



5. The application has been considered based on the averments made therein and the documents submitted to the Reserve Bank and also the submissions made during the personal hearing. Even though the APRs were not submitted from the year 1995 onwards the contraventions are being deemed to have taken place and continued upon issue of Notification No. FEMA 19/2000. I, therefore, hold that the applicant contravened the provisions of Regulation 15(iii) and Regulation 16 of Notification No. FEMA19/RB-2000 for non-submission of APRs for the years 2000 and 2002 (three years) and for undertaking disinvestment on April 08, 2002 without prior approval of RBI. Further, there was a delay of 14 years and 9 months in reporting the disinvestment in terms of Reg.16 amounting to Rs. 83,73,000/-.

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 contravention upon adjudication. However, after considering the matter in the appropriate perspective, rationale underlying the compounding provisions, the submissions made by the applicant and the entire facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which the Rs.1,42,800/- (Rupees one lakh forty two thousand and eight hundred only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely; the contraventions of Regulation 15(iii) and Regulation 16 of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000, notified vide Notification No. FEMA19/RB-2000 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.1,42,800/- (Rupees one lakh forty two thousand and eight hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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.

The application is disposed accordingly.

Dated this the third day of May, 2017

Sd/-

(A. O. Basheer)
General Manager



FED CEFA
Arvind Limited
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