



In the

Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

Monisha Chakraborty
General Manager

Date: June 19, 2017
C.A.053/2017

In the matter of

M/s V. Fraas (India) Fashion Accessories Private Limited
22, Basement, Jacaranda Marg,
DLF City, Phase 2, Gurgaon,
Haryana – 122 002.

(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 January 10, 2017 (received at Reserve Bank on January 25, 2017) 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 delay in reporting receipt of foreign inward remittances towards subscription to equity and delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of Paragraph 9(1)(A) and 9(1)(B) to 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 3rd, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) respectively.



2. The relevant facts of the case are as follows: The applicant was incorporated under the Companies Act, 1956 on November 11, 2005. The main objective of the applicant is manufacturing, designing of textiles, household goods, fashion goods and accessories. The applicant received foreign inward remittances from two foreign investors namely M/s V.Fraas AG & CO.KG, Germany and M/s V.Fraas GMBH, Germany towards subscription to equity shares as tabulated below:

S.No	Amount (Rs)	Date of Inward Remittance	Date of reporting
1	99,800	07.12.2005	14.12.2005
2	180	12.12.2005	03.02.2016
3	89,90,800	02.09.2008	03.02.2016
4	80,00,000	01.06.2015	29.07.2015
Total	1,70,90,780		

The applicant reported receipt of advance remittances amounting to Rs 1,70,90,780/- to Kolkata Regional Office of Reserve Bank on the above mentioned dates with a delay of twenty-eight days to ten years twenty-two days approximately; 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 applicant allotted equity shares for a face value of Rs.10/- per share and filed FC-GPRs as indicated below:

S.No	Amount for which shares issued (Rs)	Date of allotment of shares	Date of reporting
1	99,980	11.11.2005	03.02.2016
2	89,90,800	01.02.2009	03.02.2016
3.	80,00,000	08.06.2015	07.08.2015
TOTAL	1,70,90,780		

The applicant filed Form FC-GPR with a delay of twenty-nine days to ten years one month twenty three days approximately beyond the stipulated 30 days from the date of issue of shares. 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 allotted 17,09,078 equity shares for a face value of Rs.10/- per share across three tranches for the four foreign inward remittances to both foreign investors within the stipulated period from receipt of foreign inward remittances.

Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as amended from time to time, if shares are not issued within 180 days from the date of receipt of 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 stipulating the upper limit of 180 days for issue of shares in paragraph 8 of Sch. 1 of 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 November 13th, 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.KOL.FED.FID.3372/03.39.736/2016-17 dated June 12, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant represented by Shri Karan Sharma and Shri Kamal Singh appeared for personal hearing on June 19, 2017. The authorized representative of the applicant admitted the contraventions as stated in paragraph 2 and 3 above as committed by the applicant for which compounding has been sought. During the personal hearing, the applicant submitted that the delay was not willful or with a malafide intention.

In view of the above, the applicant 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 submission made in this context by the applicant during personal hearing and thereafter.

6. I have given careful consideration to the documents on record and submission made by the applicant 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 of Notification No.FEMA 20/2000-RB due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of Rs. 89,90,800/- and the period of contravention is seven years four months one day approximately.

(b) Paragraph 9(1)(B) of Schedule 1 of 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 as detailed in paragraph 3 above. The contravention relates to an amount of Rs. 89,90,800/- and the period of contravention is six years eleven months approximately.



7. In terms of Section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances leading to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of

Rs 1,19,680/- (Rupees One Lakh Nineteen Thousand Six Hundred and Eighty only) will meet the end of justice.

8. Accordingly, I compound the admitted contraventions namely the contraventions of Paragraph 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 Proceeding) Rules, 2000 on payment of an amount **Rs 1,19,680/- (Rupees One Lakh Nineteen Thousand Six Hundred and Eighty only)** which is to be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Third Floor, 15 N.S. Road, Kolkata- 700 001 by a demand draft drawn in favour of "Reserve Bank of India" and payable at "Kolkata" 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 Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Dated this the nineteenth day of June, 2017.

Sd/-

(Monisha Chakraborty)

General Manager