



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office Cell, 2nd floor
6, Sansad Marg
New Delhi - 110 001

Present

Dr. M. K. Singh
Assistant General Manager

Date: August 10, 2017

C.A. No.67 /2017

In the matter of

(M/s H. B. Fuller Adhesives Deutschland GmbH)

Plot 1E, Sr. 1129(P), 1140, 1295, 1122(P), Mauje – Shirwal, Taluka – Khandala,
Satara- 412801, Maharashtra

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

Order

The applicant has filed an application dated March 24, 2017 (received on March 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 relate to transfer of assets by a Branch



Office in contravention of the provisions of Regulations 6(i) of Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 notified vide Notification No. FEMA.22 /2000-RB dated May 03, 2000, as amended from time to time (hereinafter referred to as FEMA.22 /2000-RB) and terms and conditions laid out in the Reserve Bank's letter dated June 08, 2009, which is construed as contravention of Regulation 3 of FEMA 22 /2000-RB, *ibid*.

2. The relevant facts of the case is as follows: The applicant, M/s H. B. Fuller Adhesives Deutschland GmbH (formerly known as M/s Forbo Adhesives Deutschland GmbH), is a company formed and registered under the laws of Germany and engaged in the business of manufacturing Adhesives, especially Resin and Chemicals and selling /trading of Adhesives. The applicant got Reserve Bank's permission vide letter No. FE.CO.FID.32469/10.83.254/2008-2009 dated June 08, 2009 to establish its Branch Office at Mumbai, Maharashtra. This permission was subject to the terms and conditions mentioned in the letter. The applicant, prior to the closure of Branch Office in India, had sold off certain assets belonging to the Branch Office to a third party in India on September 18, 2012 for Rs.4,00,000/- (Rupees four lakh only). These assets were in the nature of furniture and fixtures, office equipment, computers and air conditioners and were valued approximately Rs.9,14,000/- (Rupees nine lakh fourteen thousand only) in the audited financial statements of the Branch Office as on March 31, 2012. The aforementioned contravention was regularized by according post-facto approval by the Reserve Bank vide letter FE.CO.FID/1166/10.83254 /2016-2017 dated March 15, 2017, subject to Compounding of Contraventions.

3. The applicant has contravened the Regulation 6(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 notified vide Notification No. FEMA.22/2000-RB dated May 03, 2000, as amended from time to time, which stipulates that a person resident outside India permitted by the Reserve Bank under Regulation 5, to establish a Branch Office or a Liaison Office in India may undertake or carry on any activity specified in Schedule I or, as the case may be, in Schedule II, but shall not undertake or carry on other activity unless otherwise specifically permitted by the Reserve Bank. Further, by not adhering the terms and conditions as mentioned in the Reserve Bank's



permission letter dated June 08, 2009, which is construed as contravention of Regulation 3 to Notification No. FEMA 22/2000-RB, and which stipulates that no person resident outside India shall, without prior approval of the Reserve Bank, establish in India a Branch Office or a Liaison Office or a Project Office or any other place of business by whatever name called.

4. The applicant was given an opportunity for personal hearing vide our email dated August 2, 2017 for further submission in person and /or producing documents, if any, in support of the application. Shri Moin Ladha, Advocate, represented the applicant, for the personal hearing on August 10, 2017. The representative of the applicant admitted the contraventions committed by the applicant for which they have sought compounding and submitted that the lapse was not intentional and requested to take a lenient view. The application for compounding is, therefore, being decided 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.

5. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the provisions of Regulation 3 and Regulation 6(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 notified vide Notification No. FEMA.22/2000-RB dated May 03, 2000, as amended from time to time, by transferring the assets amounting Rs.4,00,000/- (Rupees four lakh only), which was carried out by Branch Office, to a third party . I hold the period of contravention to be 4 years 5 months and 25 days.

6. In terms of Section 13 of the FEMA, 1999, 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 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 contraventions are to be compounded and I consider that payment of an amount of Rs.32,000/- (Rupees Thirty Two Thousand only) will meet the ends of justice in the circumstances of this case.



7. Accordingly, I compound the admitted contraventions namely, the contraventions of terms and conditions of Reserve Bank's letter of permission dated June 08, 2009, which is construed to be the contravention of Regulation 3 and Regulation 6(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other place of Business) Regulations, 2000, notified vide Notification No. FEMA.22/2000-RB dated May 03, 2000, as amended from time to time, 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.32,000/- (Rupees Thirty Two Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 2nd Floor, 6, Sansad Marg, New Delhi – 110 001 by a demand draft drawn in favor of the "Reserve Bank of India" and payable at Delhi 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 03, 2000, as amended from time to time, shall apply.

The application is disposed accordingly.

Dated this the 10th day of August, 2017

Sd/-

(Dr. M. K. Singh)
Assistant General Manager