



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.65 /2017

In the matter of

(M/s E.E.Blyth & Co. Ltd)

30, Ameya CHS, Ambedkar Nagar, Bhagoji Waghmare Road, Worli,
Mumbai, Maharashtra

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

Order

The applicant has filed an application dated March 10, 2017 (received on March 21, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act (FEMA), 1999 and the Regulations issued thereunder. The contravention sought to be compounded relate to transfer of assets by a Branch Office in contravention 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 RBI's letter dated December 12, 2006 which is construed as contravention of Regulation 3 of FEMA 22 /2000-RB.

2. The relevant facts of the case is as follows: The applicant, M/s Blyth Exim (India) Pvt. Ltd., is a wholly-owned subsidiary of M/s E.E.Blyth & Co. Ltd., a company formed and registered under the laws of UK and is engaged in the business of export



/import of granite /marble /sandstone, metals /minerals etc. M/s E. E. Blyth & Co. Ltd, was granted Reserve Bank's permission vide letter No. FE.CO.FID.12767 /10.82.958 /2006-07 dated December 12, 2006 to establish its Branch Office at Mumbai, Maharashtra. Since the Branch Office of M/s E.E.Blyth & Co. Ltd. in India is closed, the captioned application has been filed by M/s Blyth Exim (India) Pvt. Ltd. on behalf of the Branch Office. The Branch Office, prior to its closure in India, had transferred funds amounting Rs. 1,70,000/- (Rupees one lakh seventy thousand only) to M/s Blyth Exim (India) Pvt. Ltd. on November 27, 2007 without prior approval of the Reserve Bank. The abovementioned contraventions was regularized by according post-facto approval by the Reserve Bank vide letter No. FE.CO.FID /1105 /10.82.958 /2016-17 dated February 28, 2017, subject to compounding of contraventions.

3. The applicant has contravened 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 of FEMA 22 /2000-RB, to establish a Branch 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, the aforesaid Branch Office has not adhered to the terms and conditions mentioned in the Reserve Bank's permission letter dated February 28, 2017, which is construed as contravention of Regulation 3 to FEMA 22 /2000-RB which stipulates that no person resident outside India shall, without prior approval of the Reserve Bank, establish in India a Branch 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. However, the applicant expressed his inability to appear for the personal hearing fixed on August 10, 2017. The representative of the Branch Office informed the Reserve Bank vide e-mail dated August 10, 2017 that the FEMA violation of transferring Rs. 1,70,000/- from Branch Office of E.E.Blyth & Co. Ltd. To Blyth Exim (India) Pvt. Ltd. was done inadvertently, however, he has stated



that this is definitely a lapse on the part of Branch Office. Thus, he has admitted the contravention committed for which he has sought the compounding. The applicant has also requested the Bank to take a lenient view in the matter. 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 and their representative. The Reserve Bank of India, therefore, proceeds with the disposal of the case on an ex-parte basis.

5. I have given my careful consideration to the documents on record, averments and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the provision of Regulation 3 and Regulation 6(i) of FEMA.22/2000-RB dated May 03, 2000, as amended from time to time, by carrying out transfer of funds from the Branch Office to another entity prior to the closure of the Branch Office without obtaining specific prior approval of the Reserve Bank. I hold the period of contravention to be 9 years 3 months and 1 day.

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.31,300/- (Rupees thirty one thousand three hundred only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of the terms and conditions of Reserve Bank's letter of permission dated December 12, 2006, 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 Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of Rs.31,300/- (Rupees thirty one thousand three hundred 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