



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: September 25, 2017  
C.A. HYD 208

In the matter of

M/s. Arani Agro Industries Private Limited  
1-2-286, Domalguda  
Hyderabad-500029

**(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 compounding application dated April 28, 2017 and an addendum dated August 18, 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) Issue of equity shares in lieu of technology transfer to person resident outside India (ii) Redeeming of preference shares issued to a person resident outside India prior to lock in period of five years without obtaining prior approval of the Foreign Investments Promotion Board, Government of India (herein after referred to as FIPB) (iii) Taking on the company's record, transfer of shares by way of swap between non-resident and resident investors and transfer of shares from resident investors to non-resident investors (iv) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of inward remittance (v) issue of equity shares before the receipt of consideration to



a person resident outside India; (vi) Delay in reporting receipt of foreign inward remittances towards subscription to equity and (vii) Delay in submission of form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India in terms of Paragraph 3, Paragraph 8, Regulation 4, Paragraph 9(1)(A) and Paragraph 9 (1) (B) respectively of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 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 3rd May 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:

- a) The applicant is a resident company incorporated originally as a Limited company under the Companies Act, 1956 on October 09, 1986 and as a Private Limited Company on August 01, 2013 (CIN No.U15142TG1986PTC006854). The company is engaged in the business of manufacture and sale of edible oil and speciality fats based on palm kernel oil, rape seed oil, soya bean oil etc.
- b) The company vide FIPB approval No. FC.I 351/381 dated 07.11.2002 obtained approval for allotment of 1010100 preference shares. Approval was subject to the condition that redemption would not take place prior to five years.
- c) The company made an application dated 09.01.2012 to FIPB for regularization/post facto approval for all the transactions effected by the company from 2003-2004 to July 2011. FIPB vide its approval No. FC II 315(2002)/381(2002)-Amend dated September 12, 2012 granted post facto approval for various transactions subject to (i) compounding by RBI, action taken to be intimated to Department of Economic Affairs, Ministry of Finance, Government of India (ii) Payment of due taxes.
- d) The applicant received foreign inward remittances from foreign investors towards subscription to equity/preference shares as detailed below:-

Sr	Name of remitter	Amount	Date of	Date of
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Compounding of contraventions under FEMA 1999  
M/s. Arani Agro Oil Industries Private Ltd  
CA No HYD 208

No		(₹)	remittance	reporting
1	Premium Vegetable Oils Sdn bhd, Malaysia	19,98,589	13-11-2002	19-12-2002
2	Premium Vegetable Oils Sdn bhd, Malaysia	29,84,716	25-11-2002	19-12-2002
3	Premium Vegetable Oils Sdn bhd Malaysia	49,37,651	03-01-2003	20-01-2003
4	Premium Vegetable Oils Sdn bhd Malaysia	81,36,494	07-02-2003	11-01-2013
5	Premium Vegetable Oils Sdn bhd Malaysia	1,00,46,487	01-10-2003	29-10-2012
6	Premium Vegetable Oils Sdn bhd Malaysia	1,00,56,066	24-09-2003	29-10-2012
7	Premium Vegetable Oils Sdn bhd Malaysia	2,66,78,896	01-03-2004	29.10.2012
8	Premium Vegetable Oils Sdn bhd Malaysia	1,50,05,428	10-03-2004	11-01-2013
9	Premium Vegetable Oils Sdn, bhd Malaysia	65,50,422	18-03-2004	11-01-2013
10	Premium Vegetable Oils Sdn bhd Malaysia	80,52,305	24-03-2004	11-01-2013
11	Premium Vegetable Oils Sdn bhd Malaysia	65,65,820	26-03-2004	11-01-2013
12	Premium Vegetable Oils Sdn bhd Malaysia	1,54,44,176	27-04-2004	29-10-2012
13	Premium Vegetable Oils Sdn bhd Malaysia	2,05,50,500	07-05-2004	29-10-2012
14	Premium Vegetable Oils Sdn bhd Malaysia	59,84,279	16-07-2004	29-10-2012
15	Premium Vegetable Oils Sdn bhd Malaysia	54,39,324	02-08-2004	29-10-2012
16	Premium Vegetable Oils Sdn bhd Malaysia	1,09,74,285	15-09-2004	29-10-2012
17	Premium Vegetable Oils Sdn bhd Malaysia	36,52,012	18-12-2004	29-10-2012
18	Premium Nutrients Bhd Malaysia	2,52,48,400	09-04-2007	05-03-2013
19	Premium Nutrients Bhd Malaysia	2,47,69,000	09-04-2007	05-03-2013
20	Premium Nutrients Bhd. Malaysia	2,30,30,360	09-04-2007	05-03-2013
21	Premium Nutrients Bhd	2,64,34,073	11-04-2007	05-03-2013



Compounding of contraventions under FEMA 1999  
M/s. Arani Agro Oil Industries Private Ltd  
CA No HYD 208

	Malaysia			
22	Premium Nutrients Bhd Malaysia	6,13,702	24-08-2007	05-03-2013
23	Premium Nutrients Pvt Ltd, Singapore	51,01,98,979	26-03-2012	23-04-2012
24	Premium Nutrients Pvt Ltd, Singapore	27,20,73,640	17-12-2012	15-01-2013
25	Premium Nutrients Pvt Ltd, Singapore	27,34,98,632	31-12-2012	15-01-2013
	Total	131,89,24,236		

The applicant reported receipt of 25 remittances towards share subscription amounting to ₹131,89,24,236/- between 13.11.2002 to 31.12.2012 to the Regional office of Reserve Bank of India on dates indicated above, out of which, remittances amounting to ₹25,52,30,618/- have been reported with delays ranging from 6 days to 9 years 10 months 5 days approximately beyond the stipulated 30 days period . 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 not later than the stipulated period of 30 days from the date of receipt of the amount of consideration.

e) The company allotted equity/preference shares and filed Form FC-GPRs as indicated below:

Sr No	Name of the investors	Number of shares allotted	Value of shares allotted (₹)	Date of allotment	Date of reporting
1	Premium Vegetable Oils Sdn bhd	49,833	49,83,300	05-12-2002	19-12-2002
2	Premium Vegetable Oils Sdn bhd	49,376	49,37,600	25-12-2002	11-01-2013
3	Premium Vegetable Oils Sdn bhd	81,360	81,36,000	15-03-2003	11.01.2013
4	Premium Vegetable		2,00,00,000	01-11-2003	29.10.2012



Compounding of contraventions under FEMA 1999  
M/s. Arani Agro Oil Industries Private Ltd  
CA No HYD 208

	Oils Sdn bhd	2,00,000			
5	Premium Vegetable Oils Sdn bhd	62,95,542	6,29,55,420	27-03-2004	29-10-2012
6	Premium Vegetable Oils Sdn bhd	20,00,000	2,00,00,000	07-05-2004	11-01-2013
7	Premium Vegetable Oils Sdn bhd	41,97,895	4,19,78,950	25-07-2004	29-10-2012
8	Premium Vegetable Oils Sdn bhd	16,41,390	1,64,13,900	09-11-2004	29-10-2012
9	Premium Vegetable Oils Sdn bhd	3,65,173	36,51,730	27-12-2004	29-10-2012
10	Premier Nalfin Bhd (formerly known as Premium Nutrients Bhd)	99,00,000	9,90,00,000	08-05-2007	29-10-2012
11	Premier Nalfin Bhd (formerly known as Premium Nutrient Bhd)	1,00,000	10,00,000	15-10-2007	29-10-2012
12	Premium Nutrients Pvt Ltd, Singapore	5,00,00,000	5,00,00,000	26-03-2012	23-04-2012
13	Premium Nutrients Pvt Ltd, Singapore	5,45,57,227	54,55,72,270	31-12-2012	30-01-2013
			<b>132,86,29,170</b>		

The company allotted preference shares /equity shares and filed 13 form FC-GPRs for issue of shares amounting to ₹.132,86,29,170/- for allotments made during the period 19.12.2002 to 30.01.2013 out of which 10 FC-GPRs for issue of equity shares amounting to ₹.27,80,73,600 /- were filed with delays ranging from 4 years 11 months 14 days to 9 years 11 months 17 days approximately beyond the stipulated period of 30 days. 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 a person resident outside India.



- e) (i) Company has delayed in refund of balance share application money to the overseas remitter as per table below:-

S. No	Name of the remitter	Total Amount	Date of receipt	Excess amount (₹)	Date of seeking RBI approval
1	Premium Nutrients Bhd ,	2,47,69,000	09.04.2007	95,535	15.08.2016

The applicant has received remittance on 09.04.2007 and delayed in refund of excess share application money of ₹.95,535/- by 8 years 8 months 17 days approximately Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the 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 in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Govt. of India. The applicant did not obtain any specific approval from Reserve Bank of India for allotting the shares beyond the stipulated period of 180 days.

- (ii) The company has allotted shares prior to receipt of consideration thereof as detailed below:

Sr. No	Name of the remitter	Total Amount (₹)	Date of receipt	Date of allotment
1	Premium Vegetable Oils Bhd	49,37,651	03.01.2003	25.12.2002



The company has received ₹49,37,651/- on 03.01.2003 whereas shares were allotted on 25.12.2002 i.e. consideration for issue of shares was received after allotment with a delay of 9 days approximately in contravention of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as amended from time to time.

g) (i) The company has taken on record transfer of shares by way of swap as per following details:-

Name of resident investor	Name of Non-Resident investor	Value of Preference Shares (₹)	Value of equity shares	Date of swapping of shares (₹)	Date of entry in register (taking on record)	Date of FIPB approval
Sai Jyothi Housing private Limited	Premium vegetable Oil Bhd, Malaysia	9920900	9920900	25.12.2002	25.12.2002	12.09.2012
Sai Jyothi Housing private Limited	Premium vegetable Oil Bhd, Malaysia	8136000	8136000	15.03.2003	15.03.2003	12.09.2012
J.Sai Prasad						
JSVS Lakshmi						
K Nageswara Rao						
J.Jayadev						
K.Ramesh Babu						
Belair Logistics Ltd						
T.Gurumurthy						
K.Venkatesh wara Rao						

The company effected in their books swapping of 99,209 preference shares of ₹100/- each for 9,92,090 equity shares of ₹10/- each and 81,360 preference shares of ₹100 each for 8,13,600 equity shares of ₹10/- each, on 25.12.2002 and 15.03.2003 respectively between non-resident investors and resident investors without obtaining prior approval of FIPB, Government of India in



contravention of the provisions of Paragraph 3 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) read with Regulation 4 of Notification FEMA 20/2000/RB dated May 3, 2000 as amended from time to time. The period of contravention ranges from 9 years 5 months 28 days to 9 years 8 months 18 days approximately.

(ii) Shares were transferred from resident to non-resident and entered in the books of the company without obtaining prior approval of FIPB, as detailed below:-

Transferor	Transferee	Date of transfer of shares	Date of entry in the register	Equity shares	Total value (₹)	Date of FIPB approval
K V Rao	Premium Vegetable Oils Bhd	27.03.04	27.03.04	8,06,915	80,69,150	12.09.12
D Srinivasa Rao	Premium Vegetable Oils Bhd	27.03.04	27.03.04	7,12,140	71,21,400	12.09.12
D Harika	Premium Vegetable Oils Bhd	27.03.04	27.03.04	59,500	5,95,000	12.09.12
K Navata	Premium Vegetable Oils Bhd	27.03.04	27.03.04	1,09,515	10,95,150	12.09.12
Sai jyothi Housing Pvt Ltd	Premium Vegetable Oils Bhd	27.03.04	27.03.04	6,240	62,400	12.09.12
<b>Total</b>				<b>16,94,310</b>	<b>1,69,43,100</b>	

The applicant has not obtained prior approval of FIPB for transfer of 16,94,310 equity shares on 27.03.2004 from residents to non-resident investors and also effected the transfer of these shares in their registers without obtaining prior approval of FIPB, Government of India in contravention of the provisions of Paragraph 3 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) read with Regulation 4 of Notification FEMA 20/2000/RB dated May 3, 2000 as amended from time to time. The period of contravention is 8 years 5 months 17 days approximately.





h) The company has issued equity shares to non-resident investor in lieu of technology without obtaining prior approval of FIPB, Government of India as per following details:-

Name of the investor	Date of allotment of shares	Number of equity shares allotted	Value of shares allotted (₹)	Date of FIPB approval
Premium Vegetable Oils Bhd	07.05.2004	20,00,000	2,00,00,000	12.09.2012

The company issued 20,00,000 equity shares of ₹10/- each in lieu of technology transfer as noted above in contravention of the provisions of Paragraph 3 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 as amended from time to time. The period of contravention is 8 years 4 months 5 days approximately.

(i) The company has redeemed 2,00,000 preference shares issued on 01.11.2003 prior to the prescribed lock in period of five years as detailed below:

Name of the Investor	Date of allotment	Number of preference shares	Value of shares (₹)	Due Date of redemption	Actual Date of redemption
Premier Vegetable Oils Sdn Bhd	01.11.03	2,00,000	2,00,00,000	27.03.04	31.10.2008

The company has redeemed preference shares in contravention of the provisions of the terms and conditions of FIPB approval dated 07.11.2002. This is a contravention of the provisions of Paragraph 3 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 as amended from time to time. The period of contravention is 4 years 7 months 4 days approximately.



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/563/14.66.003/2017-18 dated September 21, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b). The applicant appeared for personal hearing held on 25.09.2017 during which Ms. Janaka Malmala Sudirikku Jayawickrama, Director, along with Shri. M .Manivannan, representative of Premier Nalfin Berhad, Ms. Anita Thrimawithana, Senior Manager-Legal and Shri V.Sambasiva Rao, Auditor, represented the applicant. They admitted the contraventions for which the compounding has been sought. During the personal hearing, it was submitted that the delay was not wilful or with malafide intention. In view of the foregoing, the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(i) Paragraph 3 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 as detailed below:

a) Issue of shares amounting to ₹2,00,00,000 in lieu of technology transfer, with a delay of 8 years 4 months 5 days approximately.

b) Redemption of preference shares amounting to ₹2,00,00,000/- prior to lock in period of five years with a delay of 4 years 7 months 4 days.

c) Swapping of redeemable preference shares for equity shares amounting to ₹1,80,56,900/- with delay ranging from 9 years 5 months 28 days to 9 years 8 months 18 days.

d) Transfer of shares from resident to non-resident amounting to ₹1,69,43,100/- with a delay of 8 years 5 months 17 days.

(ii) (a) Paragraph 8 of Schedule 1 of FEMA Notification No. FEMA 20/2000-RB dated May 03, 2000 for refund of excess share application money amounting ₹95,535/- with a delay of



8 years 8 months 17 days approximately. Further, the company allotted shares amounting to ₹49,37,651/- before the receipt of consideration with a delay of 9 days.

(iii) Paragraph 9(1)(A) of Schedule 1 to FEMA Notification No. FEMA 20/2000-RB for delay in reporting foreign inward remittance to Reserve Bank of India and the contravention relates to an amount of ₹25,52,30,618/- with delays ranging from 6 days to 9 years 10 months 5 days approximately.

(iv) Paragraph 9 (1) (B) of Schedule 1 to FEMA Notification No. 20/2000-RB for delay in submission of Form FC-GPR for allotment of shares amounting to ₹27,80,73,600/- to Reserve Bank of India with delays ranging from of 4 years 11 months 14 days to 9 years 11 months 17 days approximately.

(v) Regulation 4 of FEMA Notification No. FEMA 20/2000-RB for taking on record the swapping of shares amounting to ₹1,80,56,900/- and transfer of shares amounting to ₹1,69,43,100/- with delays ranging from 8 years 5 months 17 days to 9 years 8 months 18 days.

5. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty upto thrice the sum involved in such contravention 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 contravention is to be compounded and I consider that an amount of ₹. 81,21,868/- (Rupees Eighty One Lakhs Twenty One Thousand Eight Hundred Sixty Eight Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 3 read with Regulation 4, Paragraph 8, Paragraph 9(1) (A), Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA-20/2000-RB by the applicant in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹. 81,21,868/- (Rupees Eighty One Lakhs Twenty One Thousand Eight Hundred Sixty Eight Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in



Compounding of contraventions under FEMA 1999  
M/s. Arani Agro Oil Industries Private Ltd  
CA No HYD 208

favour of the "Reserve Bank of India" and payable at Hyderabad 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 25<sup>th</sup> day of September 2017

Sd/-

(R. Subramanian)  
Regional Director