



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present

Jayant Kumar Dash
Chief General Manager (The Regional Director)

September 4, 2017
CEFA.CO.ID.8004 /C.A.No. AHM- 87 /2017-18

Matter

M/s Macson Color Chem Pvt. Ltd.
Plot No. 2415, Road No. 2, Behind Sudha Deying, GIDC
Sachin, Surat - 394230
Gujarat

(Applicant)

In exercise of the powers conferred 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:

Order

The applicant has filed compounding application dated May 26, 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 is delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside



India in terms of paragraph 9(1) (B) 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: The applicant company was incorporated on April 1, 2011 under the provisions of the Companies Act, 1956 (CIN: U52100GJ2011PTC064732). The company is engaged in business of manufacturing dyes and dyes intermediates. The Company has received seven inward remittances amounting to ₹3,86,97,432/- under the automatic route. Company has issued shares for the amount of ₹3,83,62,036/- and out of ₹3,35,396/- received as excess an amount of ₹3,35,392/- has been refunded by the company and remaining amount ₹4/- has been ignored by the Bank. Company reported the said inflows to Reserve Bank of India as indicated below:

3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – No contravention detected: (Table -1)

Sr. No	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days.*
1	Rainbow Chemical Company	12/09/2013	4560480	09/10/2013	No delay
2	Rainbow Chemical Company	13/03/2014	7910500	03/04/2014	No delay
3	Rainbow Chemical Company	13/01/2016	2003934	08/02/2016	No delay
4	Rainbow Chemical Company	16/11/2016	7790708	01/12/2016	No delay
5	Rainbow Chemical Company	02/03/2017	3285755	09/03/2017	No delay
6	Rainbow Chemical Company	06/03/2017	3300006	09/03/2017	No delay
7	Rainbow Chemical Company	24/05/2017	9846049	19/06/2017	No delay
	Grand Total		38697432		

*For calculation of days of delay under 9(1) (A) reporting date to AD is taken as reporting date to RBI.



4. The applicant reported the receipt of seven inward remittances, amounting to ₹3,86,97,432/- (Rupees Three crore eighty six lakh ninety seven thousand four hundred thirty two only) to the Ahmedabad Regional Office of the Reserve Bank of India within stipulated period. Thus the company has not contravened paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB.

5. The applicant allotted equity shares and filed FC-GPRs as stated below:

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)

Sr. No.	Investor	No. of Shares Issued	Amount of Shares (Rs.)	Date of Issue of Shares	Date of Submission of FC-GPR to RBI*	Days delay excluding prescribed time of 30days*
1	Rainbow Chemical Company	228024	4560480	03/03/2014	14/06/2014	73 days
2	Rainbow Chemical Company	395525	7910500	30/03/2014	09/07/2014	71 days
3	Rainbow Chemical Company	123837	1981392	19/01/2016	11/03/2016	22 days
4	Rainbow Chemical Company	486919	7790704	25/11/2016	30/01/2017	36 days
5	Rainbow Chemical Company	411435	6582960	09/03/2017	10/04/2017	2 days
6	Rainbow Chemical Company	596000	9536000	26/05/2017	28/07/2017	33 days
	Total	2241740	38362036			

*For calculation of days of delay under 9(1) (B) reporting date to AD is taken as reporting date to RBI.

6. As indicated in the table above, the applicant has filed six form FC-GPRs amounting to ₹3,83,62,036/-. All the six form FC-GPRs amounting to ₹3,83,62,036/- were filed with the delay ranging from 2 to 73 days beyond the prescribed timeline 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 the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.287/06.04.15(M90)/CEFA/2017-18 dated August 30, 2017 for further submission in person and/or producing documents, if any, in support of the application. Director of the company Shri Piyush Patel represented the applicant for the personal hearing on August 31, 2017. They admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret for the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

8. The representative of the applicant requested that in view of the foregoing, a lenient view may be taken 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 as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

9. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

A) Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards shares as detailed in paragraph 6 above. The amount of contravention involved is ₹3,83,62,036/- with delay of approximately for 2 to 73 days beyond the stipulated time of 30 days.



10. 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, 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 contraventions are to be compounded and therefore, I consider that amount of penalty of ₹16,640/- (Rupees Sixteen thousand six hundred forty only) will meet the ends of justice.

13. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 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 ₹16,640/- (Rupees Sixteen thousand six hundred forty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 of accordingly.

Dated the 4th day of September, 2017.

Sd/-

(Jayant Kumar Dash)

Chief General Manager (Regional Director)