



In the
Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Smt. K S Jyotsna
General Manager

Date: January 23, 2020
C.A. BGL504/2019

In the matter of

M/s Dropkaffe Food and Beverages Private Limited
470/A, Srikanteshwara Nilaya, DSMR Building
4th Main Road Aduodi Road,
Koramangala 8th Block, Bengaluru 560095

(Applicant)

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

Order

The applicant has filed a compounding application dated September 20, 2019, received at the office of Reserve Bank of India, Bengaluru, on October 17, 2019, 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, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A) and 9(1)(B), respectively, of Schedule I 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 03, 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 M/s Dropkaffe Food and Beverages Private Limited, was incorporated on April 01, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is providing and supplying of various food and beverages items to customers as packaged items or through hotels, restaurants, etc. The applicant had received funds towards share application money, from the non-resident investors, namely, M/s Tibcorp International Pte Limited, Singapore, Mr. Bhupendra N Shah, USA, and M/s HHC Holdings Pte Limited, Singapore, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	07-08-2015	59,99,040.00	20-10-2015
2	11-08-2015	15,00,000.00	02-11-2015
3	05-06-2017	25,00,000.00	Form ARF not reported
	Total	99,99,040.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one month and fourteen days to one month and twenty three days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 1 to 2 in the Table-1 above. Further, the company had not reported the inward remittance mentioned at serial number 3, in Table – 1 above, to AD/RBI. Since, reporting in form ARF was discontinued with effect from September 01, 2018, (date on which Single Master Form (SMF) reporting in FIRMS portal was implemented) the delay/contravention period for non-reporting of the said inward remittance has been considered till August 31, 2018. Thus, the delay would be one year one month and twenty six days, beyond the stipulated period of 30 days in respect of the remittance as indicated at serial number 3, in the Table-1 above.

Whereas, in terms of Paragraph 9(1)(A) of Schedule I 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 company had allotted shares and filed form FC-GPRs, with Reserve Bank/AD Bank, as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	24-08-2015	194 Equity and 1726 CCPs	59,99,040.00	24-01-2017
2		49 Equity and 431 CCPs	14,99,760.00	
3	15-06-2017	10 Equity and 331 CCPs	25,00,863.31	13-08-2019
		253 Equity and 2488 CCPs	99,99,663.31	

The applicant filed form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one year four months and one day to two years and twenty nine days, beyond the prescribed period of 30 days, in respect of the allotments as indicated in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA. 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.1724/22.10.271/2019-20, dated January 16, 2020. However, the company sought to be exempted from the personal hearing with the Compounding Authority vide their email dated January 17, 2020.

The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.



5. 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:

(a) Paragraph 9(1)(A) of Schedule I to 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 **₹99,99,040.00**, and the period of delay ranges from one month and fourteen days to one year one month and twenty six days; and

(b) Paragraph 9(1)(B) of Schedule I to 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 **₹99,99,663.31**, and the period of delay ranges from one year four months and one day to two years and twenty nine days.

6. It has been declared in the compounding application dated September 20, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking, furnished as part of the compounding application that the applicant was not under any enquiry/investigation /adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this order is subject to the veracity of the above declarations made by the applicant, and this order is without prejudice to any other action which may be taken by any authority under the extant laws, if the said declarations are subsequently discovered to be false and/or incorrect.

7. 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 I consider that an amount of **₹39,680.00 (Rupees Thirty Nine Thousand Six Hundred and Eighty only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹39,680.00 (Rupees Thirty Nine Thousand Six Hundred and Eighty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, payable at Bengaluru, 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 this, the Twenty Third day of January 2020.

Sd/-

(K S Jyotsna)
General Manager