



In the
Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

H. Thangzaman
Chief General Manager

Date: April 29, 2019
C.A.098/2019

In the matter of
M/s Bengal Port Private Limited
Sagar Estate, 4th Floor, 2, Clive Ghat Street
Kolkata-700001
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated March 1, 2019 (received at Reserve Bank on March 13, 2019) 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 is for delay in submission to the Reserve Bank of Form FC-GPR after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of 9(1)(B) to 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 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 Bengal Port Private Limited, was incorporated under Companies Act, 1956, on March 15, 1995. The applicant is in the business of Cargo handling incidental to water {NIC: 52242}. The applicant had received foreign inward remittances for subscription to equity shares under the Automatic Route from foreign investors.

3. The company had allotted shares within the stipulated period as per the provisions of Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

4. The applicant reported the allotment of shares in form FC-GPR to the Reserve Bank with delay of 4144 days beyond the stipulated period of 30 days from the date of allotment of shares, as indicated in Table 1 below.

Table 1: Allotment of shares to foreign investors and reporting thereof

Sl. No.	Inflow (INR)	Amount for which shares have been issued	Date of inflow	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	2,99,99,999.93	2,99,99,999.93	10-Jan-05	27-Jun-05	30-Nov-16	4144

Whereas in terms of para 9(1) B of schedule 1 to 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 person resident/ outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.Kol.FED.FID.1589/ 06.01.002/2019, for further submission in person and/or producing documents, if any, in support of the application. On the date of personal hearing, i.e., April 24, 2019, the applicant represented by Mr. Ravindra Khandelwal (CA Partner) admitted the contraventions as stated in para



4 of this Order. During the personal hearing, the applicant requested to take a lenient view in the matter.

6. It has been declared in the compounding application dated March 1, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration furnished with 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/him/her 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 are 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. The contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.

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

- a. Paragraph 9(1)(B) of Schedule 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 2,99,99,999.93.

8. In terms of section 13 of the FEMA, any person contravening any provision of the act shall be liable for a penalty up to thrice the sum of the contravention upon adjudication. Considering the circumstances which led to the delay and other relevant facts of the case, I am, however, inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an



amount of Rs. 5,89,167 (Rupees Five Lakh Eighty-nine Thousand One Hundred and Sixty-seven only) will meet the end of justice.

9. Accordingly, I compound the admitted contraventions namely, the contravention of 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Rs. 5,89,167 (Rupees Five Lakh Eighty-nine Thousand One Hundred and Sixty-seven only) which is to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Sd/-

(H. Thangzaman)

Chief General Manager

Dated this Twenty Ninth day of April, 2019