



In the

Reserve Bank of India
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Shri Vinod Kumar
Deputy General Manager

Date: February 27, 2019

CA No. CHA 31/2019

In the matter of

M/s Canadian Center for Success Pvt Ltd
B-408 &412, 4th Floor Elante Office Block
Plot No. 178
Industrial Area Phase 1
Chandigarh-160002

(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

The applicant has filed a compounding application dated February 04, 2019 (received at Reserve Bank of India on February 04, 2019) for compounding of contravention of the provision of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is the delay in receiving of the inflow amount beyond stipulated days after issue of shares to a person resident outside India and delay in refunding the excess amount; in terms of Paragraph 2 of Schedule 1 to to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB dated November 7, 2017, as amended from time to time (hereinafter referred to as Notification No. FEMA 20 (R)/2000-RB).



2. The relevant facts of the case are as follows:

The applicant company was incorporated on July 10, 2018 under the Companies Act 2013. The applicant is engaged in the business of Consultancy and advising on all matters related to education and training including diagnostic language testing.

3. The applicant had received foreign inward remittance with delay beyond stipulated days after issue of MoA shares to a person resident outside India as indicated below.

Sr	Share issue Date	Share Amount	Date of inflow	Amount	Delay in receiving of inflow
1	10.07.2018	14,85,000.00	18.09.2018	15,37,335.45	10 Days

As mentioned above, there was delay of **10 days** in receiving of inflow beyond stipulated time. This is contravention of **para 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017**.

4. The applicant failed to apply for the permission to refund the excess inflow amount within the scheduled time limit.

Sr	Date of Inflow	Amount	Amount of shares issued	Excess amount (for Refund)	Date of application for refund to RBI	Delay (in days)
1	18.09.2018	15,37,335.45	14,85,000.00	52,335.45	11.12.2018	84 Days

As mentioned above, there was delay in applying for refunding the excess amount beyond the stipulated time. This is contravention of **para 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017**.

5. The applicant was given an opportunity for personal hearing vide our letter No. CHD.FE.CG/FID/604/03.01.011/2018-19 dated February 07, 2019 for further submission in person and/or producing documents, if any, in support of the application. However, the applicant vide its e-mail dated February 12, 2019 had informed that it was opting out of personal hearing and requested to proceed with the compounding. The application for compounding is, therefore, being considered on the basis of the averments made in the application along with the documents produced.

6. It has been declared in the compounding application dated February 04, 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 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 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.

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

- a. **Paragraph 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017** due to delay in receiving of the inflow amount beyond stipulated days as detailed in paragraph 3 above. The contravention relates to an amount of ₹ **14,85,000 /- with a delay of 10 days.**
- b. **Paragraph 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017** due to delay in refunding the excess amount beyond the stipulated time as detailed in paragraph 4 above. The contravention relates to an amount of ₹ **52,335.45/- with a delay of 84 days.**

8. 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 contravention is to be compounded and I consider that amount of penalty of ₹ **58733.00 (Rs Fifty Eight thousand Seven Hundred Thirty Three only)** will meet the ends of justice.

9. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of 2 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB dated November 7, 2017 on the facts discussed above, on payment of an amount of ₹ **58,733.00 (Rs Fifty Eight thousand Seven Hundred Thirty Three only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **within a period of 15**



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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 27th day of February 2019.

Vinod Kumar
Deputy General Manager