



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

K Dhamodhiran
Assistant General Manager

Date: October 11, 2019
C.A.951/2019

In the matter of

M/s. CDM Smith Global Services India Pvt Ltd.
(Formerly CDM Smith Engineering & Design Services India Pvt Ltd.)
40A, 40B, Venkatanarayana Road
"Bascon Futura", 2nd floor, T Nagar
Chennai - 600 017

(Applicant)

In exercise of the powers 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 August 26, 2019 (received at Reserve Bank on August 28, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in refund of excess



M/s.CDM Smith Global Services India Pvt Ltd -C.A.951/2019

consideration in terms of Paragraph 2(3) 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 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on October 24, 2018 under the provisions of the Companies Act, 2013 (Registration No. U74990TN2018FTC125411) and is engaged in the business of architectural and engineering activities and related technical consultancy. The applicant received one foreign inward remittance of ₹10,26,900.00 on 30.11.2018 from M/s.CDM Smith Inc., USA towards subscription to capital instruments. Against the above remittance, the company allotted capital instruments for ₹10,00,000.00 to M/s.CDM Smith Inc., USA and M/s.CDM Smith International Inc., USA on 05.12.2018 and filed the FC GPR with Reserve Bank.

3. The company refunded the balance amount after allotment as detailed below:

Sl. No.	Date of receipt	Amount (₹)	Date of refund
1	30.11.2018	26,900.00	03.10.2019

The company refunded the excess consideration with a delay of seven months 20 days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, if capital instruments are not issued within 60 days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance within 15 days from the date of completion of 60 days.

4. The applicant was advised about the contravention vide memorandum dated July 12, 2019. The applicant has filed a compounding application dated August 26, 2019 wherein it has been declared in the compounding application 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 declaration that the applicant was not under any



M/s.CDM Smith Global Services India Pvt Ltd -C.A.951/2019

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. Accordingly, the above contravention which is 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 09, 2019 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing scheduled on October 11, 2019 during which Shri Lakshmanan K, Director, represented the applicant. The authorized representative of the applicant admitted the contravention as stated in paragraph 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. In view of the above, they requested Reserve Bank to take a lenient view in the matter. 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.

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

- a)** Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of excess consideration. The contravention relates to an amount of ₹26,900.00 with the duration of contravention being seven months 20 days approximately.

7. In terms of Section 13 of the FEMA, 1999, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention



M/s.CDM Smith Global Services India Pvt Ltd -C.A.951/2019

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 **₹1722/-** (Rupees one thousand seven hundred and twenty two only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹1722/-** (Rupees one thousand seven hundred and twenty two only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 eleventh day of October, 2019.

Sd/-
K Dhamodhiran
Assistant General Manager