



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
5th floor, Amar Building  
Sir P.M. Road  
Mumbai - 400 001

Present

**R.K. Moolchandani**  
**Chief General Manager**

Date: March 05, 2019  
CA No 4807 / 2018

In the matter of

**Cheerful Commercial Private Limited**  
**G12, Ground Floor, Raheja Centre**  
**214, Free Press Journal Marg**  
**Nariman Point, Mumbai – 400021**

**(Applicant)**

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

### **Order**

The applicant has filed the application dated October 30, 2018 (received in the Reserve Bank of India on November 02, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for non-receipt of share certificates or any other proof of investment, within the stipulated time period of six months. The above amounts to the contravention of Regulation 15(i) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004



notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant company was incorporated as Cheerful Finance and Investments Private Limited (CIN U65990MH1990PTC059029), under the Companies Act, 1956, on November 19, 1990. Its name was changed to Cheerful Commercial Private Limited on August 28, 1999. It is engaged in the business of buying, selling, exporting, importing all types of commodities, goods, products etc.

The applicant remitted a sum of USD 1,950,000.00 on 03.02.2017, for purchase of 4,82,19,585 shares of Piramal Glass Ceylon PLC, a company incorporated in Sri Lanka. The shares were to be acquired on the Colombo Stock Exchange. The applicant could acquire only 65,74,763 shares, within the stipulated period of six months due to low volume of trades on the Colombo stock exchange. The share certificates or any other proof of investment for the remaining amount of USD 1,687,602.00 (Rs. 10,98,29,138.00) could not be received by the applicant within the stipulated period of six months, thereby contravening Regulation 15(i) of Notification No. FEMA 120/2004-RB. The unutilized share application money was repatriated on 15.11.2017, thereby completing the administrative action.

3. Regulation 15 (i) of Notification No.FEMA.120/2004-RB, states that “An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months....”

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/4893/15.20.67/2018-19 dated February 15, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 27, 2019 during which Shri Pradeep Bala, General Manager, Business Operations of the applicant,



and Shri Rupam Nagvekar, Chartered Accountant, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has been declared in the compounding application dated October 30, 2018, 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 also been declared in the declaration submitted along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. 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 application is, therefore, being considered on the basis of the averments made and the documents produced in the compounding application, and thereafter.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 15(i) of Notification No.FEMA.120/2004-RB. The amount of contravention Rs. 10,98,29,138.00 and the period of contravention is three months approximately.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case, it stands to reason that payment of an amount of Rs. 10,000/- (Rupees ten thousand only) will meet the ends of justice in the circumstances of this case.



7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 15(i) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs. 10,000/- (Rupees ten thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 the fifth day of March, 2019

**Sd/-**  
**(R.K. Moolchandani)**  
**Chief General Manager**