



In the  
**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
6, Sansad Marg  
New Delhi-110001

Present  
**Md. Shakir Hasan**  
**Assistant General Manager**

Date: October 23, 2019  
CA No. NDL 484/2019

In the matter of

**Curryfruit IT Services Private Limited**  
G-14, Sector-3, Gautam Buddha Nagar, Noida, Uttar Pradesh – 201301

**(Applicant)**

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

**ORDER**

The applicant has filed the compounding application dated June 16, 2019 (received at Reserve Bank of India, New Delhi on June 19, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) allotment of shares to the person resident outside India prior to receipt of the amount of consideration in terms of paragraphs 9(1)(A), 9(1)(B) and 8 respectively of 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 3, 2000 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company, incorporated on March 14, 2017, is engaged in computer consultancy and computer facilities management activities.

(b) The applicant had received foreign inward remittance of ₹1,04,576/- on October 13, 2017, as consideration for MoA shares, from its foreign investor, Jakob Melchior Hirzel, Switzerland, and reported the same on March 26, 2019 with a delay of 9 months and 19 days, beyond the prescribed period, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with a copy/ies of documents prescribed therein. Reporting of receipt of foreign inward remittance for issue of capital instruments in Advance Remittance Form was dispensed with in terms of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Amendment) Regulations, 2018 with effect from September 1, 2018. Delay in reporting of foreign inward remittance has, therefore, been taken up to August 31, 2018.

(c) The applicant had allotted 9,990 MoA shares for a consideration of ₹99,900/- to Jakob Melchior Hirzel, Switzerland, on March 14, 2017 and reported the same in Form FC-GPR on March 26, 2019 with a delay of 1 year, 4 months and 14 days, beyond the prescribed period in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in the Form FC-GPR as specified by the Reserve Bank from time to time



together with the documents prescribed therein.

(d) The applicant had received foreign inward remittance against 9,990 equity shares allotted on March 14, 2017 to its subscriber to the Memorandum of Association (MoA), Jakob Melchior Hirzel, Switzerland, for a consideration of ₹99,900/- with a delay of 5 months, beyond the prescribed period in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, an Indian company accepting FDI has to receive the share application money from the non-resident investor prior to allotment of shares, and the shares have to be issued within 180 days from the date of the receipt of consideration.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Ms Princy Agrawal, Consultant, appeared for personal hearing on October 23, 2019 on behalf of the applicant. The representative of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, she submitted that contraventions were without any *malafide* or wilful intention but were mainly due to delay in resolving the issues pertaining to submission of Form FC-GPR on FIRMS portal, delay in opening of bank account and lack of awareness about reporting requirements under FEMA. She requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in reporting foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹1,04,576/- (Rupees One Lakh Four Thousand Five



Hundred and Seventy Six only) and the period of delay is 9 months and 19 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in filing Form FC-GPR after allotment of shares as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹99,900/- (Rupees Ninety Nine Thousand and Nine Hundred only) and the period of delay is 1 year, 4 months and 14 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of allotment of shares to the person resident outside India prior to receipt of the amount of consideration as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹99,900/- (Rupees Ninety Nine Thousand and Nine Hundred only) and the period of delay is 5 months.

5. It has been declared in the compounding application dated June 16, 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 also been declared in the declaration dated June 16, 2019 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. 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.

6. In terms of Section 13 of 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 I am persuaded to compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules, 2000. Accordingly, it stands to reason that payment of an amount of **₹22,119/- (Rupees**



**Twenty Two Thousand One Hundred and Nineteen only**) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 8, 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹22,119/- (Rupees Twenty Two Thousand One Hundred and Nineteen only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 23rd day of October 2019.

Sd/-  
**(Md. Shakir Hasan)**  
**Assistant General Manager**