



In the

Reserve Bank of India
Foreign Exchange Department,
Reserve Bank of India, MG Road
Kanpur - 208001

Present

Mohit Kumar
Assistant General Manager, Kanpur

Date: January 30, 2020
C.A. KAN12/2019

In the matter of

M/s ExpansionJS Technologies Private Limited
Registered Office: First Floor, C-1510,
Aravali Marg, Indira Nagar, Lucknow
UP – 226 016

(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 thereunder, I pass the following

ORDER

The applicant has filed a compounding application dated October 03, 2019 (received at Reserve Bank of India, Kanpur on October 15, 2019) and addendum dated December 13, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay in refund of excess share application money to a person resident outside India. This amounts to contravention 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. FEMA20(R)/2017-RB dated November 7, 2017, 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 company reported FCGPR061923447 for receipt of ₹ 3,69,826.53 on February 13, 2019 from Shri Justin L Brach, USA. The company issued 36,000 equity shares of ₹ 10/- each to Shri Brach. The value of equity shares allotted to the investor was ₹3,60,000 thereby resulting in excess share application money of ₹ 9,826.53. The company refunded ₹ 9826.53 to Shri Brach on July 25, 2019 with a delay of 87 days beyond stipulated time-period of 75 days from the date of receipt of inward remittance. Thus, there was contravention of paragraph 2(3) of Schedule 1 of FEMA Notification 20(R)/2017-RB dated November 7, 2017.

3. The applicant was given an opportunity for personal hearing, vide our letter no. कान.वि.नि/प्र.वि.नि/सं.305/08.11.405/2019-20 dated December 30, 2019, for further submission in person and/or produce documents, if any, in support of the application. Shri Shaiban Siddiqui, Director of the company, appeared for personal hearing on January 14, 2020. The authorized representative of the applicant submitted that the contraventions on the part of the applicant company was inadvertent and unintentional and therefore, the matter may be viewed leniently. The application for compounding was considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.

4. I have given my careful consideration to the documents on record and submissions made by the representative of the applicant company during the personal hearing. Accordingly, I hold that the applicant has contravened the Regulations at Paragraph 2 (3) of Schedule I of Notification No. FEMA20(R)/ 2017-RB dated November 7, 2017, i.e. there was a delay in refund of excess share application money to resident outside India, wherein the amount of contravention was ₹ 9825.91 and the period of contravention was 87 days.



5. It has been declared in the compounding application dated Oct 03, 2019, that the particulars given by the applicant are true and correct to the best of their knowledge and belief. It has also been declared that the applicant was not under any enquiry/ investigation/ adjudication by any agency as on the date of the application. The applicant has not informed of initiation of any such enquiry/ investigation/ adjudication proceedings against it, thereafter. Accordingly, the above contravention, which is being compounded in this Order, is subject to the veracity of the above declaration/s 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. 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 **₹ 500/- (Rupees Five Hundred only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of para 2(3) of Schedule I of Notification No. FEMA20(R)/ 2017-RB dated November 7, 2017 by the applicant, based on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹ 500/- (Rupees Five Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mahatma Gandhi Marg, Kanpur- 208 001, by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Kanpur within a period of 15 days from the date of this order. In case of failure to deposit the compounded amount within the abovementioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.



The application is disposed off accordingly.

Dated this 30th day of January 2020.

Sd/-

(Mohit Kumar)

Assistant General Manager