



In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
EDC Complex, Patto Plaza,
Panaji, Goa - 403 001

Present

Richard Gomes
Assistant General Manager

Date: May 13, 2019

CA No: PAN20

In the matter of

M/s Kalina Cafe Private Limited
Regd. Office: H. No. 98/7, Laxmi Niwas,
Bandir Wado, Anjuna, Goa – 403 509

(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 28, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in filing of form FC-GPR beyond the stipulated time period and (ii) delay in receipt of inward remittance against the issue of shares, in terms of paragraphs 9(1)(B) and 8 respectively of Schedule-I 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 3rd May 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

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

i) The applicant is a company registered as a private limited company, incorporated on September 22, 2015 under the Companies Act, 2013 (CIN: U55101GA2015PTC007724) with the main object of undertaking the business of bars and restaurants with bars (NIC code: 56301).

ii) The applicant allotted equity shares and filed FC-GPR as indicated below:

Name of Investor	No. of Shares	Amount (Rs.)	Date of Allotment	Reported to RBI on
Andrei Kirianov	4886	48,860/-	22-Sep-2015	23-Jul-2018

The applicant filed Form FC-GPR in respect of shares allotted with delay of 2 years 9 months, beyond the stipulated period of 30 days. Whereas in terms of paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.



iii) The applicant had received inward remittance with delay beyond stipulated period after issue of shares subscription to MOA to a person resident outside India as detailed below –

No. of Shares	Amount (Rs.)	Date of Credit	Date of Allotment
4886	48,860	2-Jan-2018	22-Sep-2015

The applicant has received inward remittance against the issue of shares subscription to MOA with delay of 2 years 1 month 11 days. This is contravention in terms of paragraph 8 of Schedule-I to Notification No. FEMA 20/2000-RB, dated May 03, 2000.

3. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter no. PNJ.FED: 607 / 02.09.020 / 2018-19 dated April 16, 2019 for further submission in person and / or producing documents, if any, in support of the application. The applicant vide email dated April 18, 2019 submitted that it did not wish to attend the personal hearing.

It has been declared in the compounding application dated February 28, 2019 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief and also that the applicant was not under any enquiry/investigation/adjudication by any agency such as Enforcement Directorate, CBI, etc. as on the date of the application. The applicant has also given an undertaking to inform RBI of initiation of any enquiry / investigation / adjudication proceedings against it 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 for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions submitted along with the application.

4. I have given my careful consideration to the documents on record and in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of:

i) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India. The contravention relates to an amount of **Rs.48,860/-** and the duration of contravention is 2 years 9 months.

ii) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in receipt of inward remittance against allotment of shares subscription to MOA beyond the stipulated period. The contravention relates to an amount of **Rs.48,860/-** and the duration of contravention is 2 years 1 month 11 days.

5. 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 contraventions are to be compounded and I consider that an amount of **Rs.17,321/- (Rupees Seventeen Thousand Three Hundred Twenty One only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(B) and 8 of Schedule I to Notification No. FEMA 20/2000-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 **Rs.17,321/- (Rupees Seventeen Thousand Three Hundred Twenty One only)**



which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC, Patto Plaza, Panaji, Goa 403 001 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 abovementioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed of accordingly.
Dated this the Thirteenth day of May 2019.

Sd/-

(Richard Gomes)
Assistant General Manager