



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

Present
Md. Shakir Hasan
Assistant General Manager

Date: June 28, 2019
CA No. NDL 441/2019

In the matter of
Medcloud Software Solutions (I) Private Limited
Flat No. T-2/303, Parsvanath Green Ville Sohna Road, Sector- 48, Fazilpur Jha,
Gurgaon, Haryana 122018
(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 April 25, 2019 (received at Reserve Bank of India, New Delhi on April 30, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded is that of issue of shares to the person resident outside India prior to receipt of the amount of consideration in terms of paragraph 2(2) of Schedule 1 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 7, 2017 (hereinafter referred to as FEMA 20(R)/2017-RB), as amended from time to time.

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

(a) The applicant company was incorporated on August 09, 2018 and is engaged in



the business of providing data entry services.

(b) The applicant had allotted 9999 equity shares as subscription to Memorandum of Association (MoA) on August 09, 2018 and reported the same in Form FC-GPR with delay on December 06, 2018 in contravention of the provisions of Regulation 13.1(2) of FEMA 20(R)/2017-RB, as then applicable. The applicant has paid Late Submission Fee (LSF) for the said contravention as required in terms of Regulation 13.2 of FEMA 20(R)/ 2017-RB.

(c) The applicant had received the inward remittance of ₹ 99,989.99 on November 9, 2018 as consideration for the MoA shares allotted on August 09, 2018 from its foreign investor, M/s Medcloud Software Solutions LLC, USA, with a delay of 1 month and 1 day beyond the prescribed period in contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable. Whereas, in terms of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

(d) Thus, there is a contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/ 2017-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. Manisha Rawat, Company Secretary, appeared for personal hearing on June 27, 2019 on behalf of the applicant. The representative of the applicant admitted the contravention committed by the applicant for which compounding has been sought. During the personal hearing, she submitted that contravention was without any malafide or wilful intention but was mainly due to delay in opening the bank account of the company. 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 provision of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, on account of issue of shares to person resident outside India



prior to receipt of amount of consideration, as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹99,989.99 (Rupees Ninety Nine Thousand Nine Hundred Eighty Nine and Paise Ninety Nine only) and the period of delay is 1 month and 1 day.

5. It has been declared in the compounding application dated April 25, 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 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 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.

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 contravention, 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 **₹1,700/- (Rupees One Thousand and Seven Hundred only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-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 **₹1,700/- (Rupees One**



Thousand and Seven Hundred 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 28th day of June 2019.

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