



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri.P Kalyan Chakravarthy
Assistant General Manager

Date: April 30, 2019
C.A. HYD 415

In the matter of

M/s. Shepherd Tech Consultancy Private Limited
12-11-1437, Boudh Nagar, Warasiguda
Hyderabad – 500 061

(Applicant)

In exercise of the powers conferred under sub-section 1 of Section 15 of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made there under, I pass the following

Order

The applicant has submitted the compounding application dated March 08, 2019 received by us on March 11, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity, (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India, (iii) delay in receipt of consideration after allotment of shares to a person resident outside India and (iv) delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return), in



terms of Paragraph 9(1)(A), 9(1)(B), Paragraph 8 and Paragraph 9(2) 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 3rd May 2000 as then applicable (herein after referred to as Notification no. FEMA 20/2000-RB) and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as amended from time to time.

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

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on January 23, 2014 (CIN: U74900TG2014PTC092480). The company is engaged in the business of “Other information service activities n.e.c.”.
- b) The applicant had received foreign inward remittances from the following foreign investors as indicated below:

SI No	Name of Remitter	Amount (INR)	Date of Receipt	Date of Reporting
1	Tao Chen	1,48,927.51	27.05.2014	29.05.2015
2	Liu Guangdao	2,01,372.97	28.05.2014	29.05.2015
3	Tao Chen	6,420	08.11.2017	16.12.2017
Total		3,56,720.48		

* Company has paid the Late Submission Fee for the remittance received on November 08, 2017.

The applicant reported receipt of remittances towards share subscription amounting to ₹ 3,50,300.48 to the Regional Office of Reserve Bank of India, which was reported with delays ranging from 11 months 2 days to 11 months 3 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should



report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

- c) The company allotted equity shares and filed form FC-GPRs as indicated below:

Sl No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting to AD or RBI
1	Tao Chen	23.01.2014	15,000	1,50,000	21.02.2018
2	Liu Guangdao		20,000	2,00,000	
Total				3,50,000	

The applicant filed form FCGPR for the allotment of shares amounting to ₹ 3,50,000/- as indicated above, which was reported with a delay of 4 years approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 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 person resident outside India.

- d) The applicant has delayed in receiving inward remittance of ₹ 3,50,000/- after allotment of shares with delays ranging from 4 months 5 days to 3 years 9 months 17 days approximately as shown below, in contravention of Paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000—RB dated May 03, 2000 as then applicable.

Sl No	Name of Remitter	Amount (INR)	Date of allotment of shares	Date of Receipt
1	Tao Chen	1,48,927.51	23.01.2014	27.05.2014
2	Liu Guangdao	2,01,372.97	23.01.2014	28.05.2014
3	Tao Chen	1,072.49	23.01.2014	08.11.2017



Total	3,50,000		
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e) The company has delayed in filing FLA Return (Foreign liabilities and Assets) as shown below:

Sl No	Particulars	Financial year	Due date of filing the return	Date of actual filing
1	FLA Return	2016-17	15.07.2017	11.09.2017
2	FLA Return	2017-18	15.07.2018	16.09.2018

Whereas in terms of Para 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as amended from time to time, "All Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time].

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/ 2344 /14.66.003/2018-19 dated April 23, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on April 29, 2019 during which Shri. Nitin Karwa, Chartered Accountant represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was on account of administrative reasons. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for



compounding is, therefore, being considered on the basis of the averments made in the application.

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

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to ₹ 3,50,300.48 and the period of contravention ranges from 11 months 2 days to 11 months 3 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 3,50,000/- and the period of contravention is 4 years approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in receipt of consideration after allotment of shares to the non-resident investor and the contravention relates to an amount of ₹ 3,50,000/- and the period of contravention ranges from 4 months 5 days to 3 years 9 months 17 days approximately.

(d) Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB and Paragraph 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB for delay in filing of Annual Return on Foreign Liabilities and Assets to Reserve Bank of India for two years viz, 2016-17 and 2017-18 with delays ranging from 1 month 28 days to 2 months 2 days approximately.

5. It has been declared in the compounding application dated March 08, 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 been declared in the declaration dated April 03, 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 1999. 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 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 contravention is to be compounded and I consider that an amount of **₹ 77,080/- (Rupees Seventy Seven Thousand Eighty Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8 and Paragraph 9(2) of Schedule 1 to Notification No. FEMA-20/2000-RB and Regulation 13.1(3) of Schedule 1 to Notification No. FEMA-20(R)/2017-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount **₹ 77,080/- (Rupees Seventy Seven Thousand Eighty Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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.



Compounding of contraventions under FEMA 1999
M/s Shepherd Tech Consultancy Private Limited
CA No. HYD 415

The application is disposed of accordingly.

Dated this 30th day of April 2019.

Sd/-

(P Kalyan Chakravarthy)

Assistant General Manager