



In the
Reserve Bank of India
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Smt. Rachna Dikshit
Regional Director (Punjab, Haryana and U.T. of Chandigarh)
Chief General Manager, Chandigarh

Date: April 25, 2019
CA No.CHA 39 /2019

In the matter of

M/s Sumati legal Services Pvt. Ltd.
CIN- U93000CH2012PTC033535
DLF, Tower E, 1st Floor,
Rajiv Gandhi- Technology Park,
Chandigarh – 160101

(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 April 08, 2019 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity shares and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of Paragraph 9(1) (A) and Para 9(1) (B) respectively, of Schedule I to the 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 and 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:

The applicant company was incorporated on February 01, 2012 under the Companies Act 1956. The applicant engaged in business of providing IT enabled services.

3. The applicant received foreign inward remittance towards investment in equity shares from non-residents as under:

| <u>Sr No.</u> | <u>Date of receipt</u> | <u>Amount of foreign inward remittance in ₹</u> | <u>Date of reporting to RBI</u> | <u>Delay beyond prescribed time of 30 days</u> |
|---------------|------------------------|-------------------------------------------------|---------------------------------|------------------------------------------------|
| 1. | 16.12.2015 | 33,11,003.27 | 09.06.2016 | 146 Days |

The above remittance was not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittances to Reserve Bank of India with delay of 146 days, in contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares 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.

4. Further, the applicant company issued shares to the non-resident investor but filed the Form FC-GPR with delay as indicated below.

| <u>Sr. No</u> | <u>Date of issue of shares</u> | <u>Amount of shares in ₹</u> | <u>Date of submission of FC-GPR to RBI</u> | <u>Delay beyond prescribed time of 30 days</u> |
|---------------|--------------------------------|------------------------------|--------------------------------------------|------------------------------------------------|
| 1. | 18.09.2012 | 33,686.80 | 09.10.2013 | 356 Days |
| 2. | 12.02.2016 | 33,10,632.00 | 15.10.2018 | 946 Days |
| 3. | 09.02.2017 | 1,18,49,428.00 | 15.10.2018 | 583 Days |

The applicant reported the allotment of shares to the Reserve Bank with delay ranging **from 356 to 946 days**. The delay in reporting to the Reserve Bank in Form FC-GPR, beyond the prescribed period of 30 days in respect of allotment of the above shares, is in contravention of the provisions stipulated in the Paragraph 9(1) (B) of Schedule I to FEMA Notification No.20/2000-RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank of



India a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to the person resident outside India.

5. The applicant was given an opportunity for personal hearing vide our letter No.FE.CG/FID/833/03.01.333/2018-19 dated April 11, 2019 for further submission in person and/or producing documents, if any, in support of the application. However, the applicant vide its e-mail dated April 12, 2019 had informed that it was opting out of personal hearing and requested to proceed with the compounding. The application for compounding is, therefore, being considered on the basis of the averments made in the application along with the documents produced.

6. It has been declared in the compounding application dated April 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 undertaking 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.

7. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- a. **Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in reporting of receipt of foreign inward remittance towards subscription of shares as detailed in paragraph 3 above. The contravention relates to an amount of ₹ **33,11,003.27/- with a delay of 146 days.**
- b. **Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The contravention relates to an amount of ₹ **1,51,93,746.80/- with the delay ranging from 356 to 946 days.**



8. 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 amount of penalty of ₹ **1,12,060/- (Rupees One Lakh Twelve thousand Sixty only)** will meet the ends of justice.

9. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of Paragraph 9(1) (A) and Paragraph 9(1) (B) 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 May 3, 2000 on the facts discussed above, on payment of an amount of ₹ **1,12,060/- (Rupees One Lakh Twelve thousand Sixty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at “Chandigarh” **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 of accordingly.

Dated: the 25th day of April 2019.

Sd/-

Rachna Dikshit

Regional Director

Chief General Manager