



In the
Reserve Bank of India
Foreign Exchange Department
Ernakulam North
Kochi 682 018

Present

Smt. Reeny Ajith
Regional Director for Kerala and Lakshadweep
Reserve Bank of India
Thiruvananthapuram - 695 033

Date: December 02, 2019

CA No.KOC 24 / 2019

In the matter of

M/s Tharakan Web Innovations Pvt. Ltd.
EP/XII/492A, Ezhupunna P.O, Alappuzha – 688 548
(Applicant)

In exercise of the powers under Section 15(1) of the Foreign Exchange Management Act, 1999, and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following:

Order

1 The applicant has filed the compounding application dated June 17, 2019 received at the Reserve Bank of India on June 27, 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 in respect of the following Regulations/Paragraphs under Schedule 1 of 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 03, 2000, as amended from time to time (hereinafter referred to as FEMA 20) and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017, notified vide Notification No.

FEMA 20R/2017-RB dated November 07, 2017, as amended from time to time (hereinafter referred to as FEMA 20R):

(i) Paragraph 9 (2) of FEMA 20 and Regulation 13.1 (3) of FEMA 20R: Delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns)

2 Brief details of the applicant company are as below:

Date of Incorporation:	March 28, 2008
Its main activities:	Developing websites, web portals and providing web enabled business solutions

M/s Tharakan Web Innovations Ltd. had reported the receipt of funds of Rs.56,37,726/- during 2014-2017 for investment in the share capital of the company under FDI Scheme with delay ranging from 18 days to 103 days in terms of Paragraph 9(1) A of Schedule 1 of 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 as amended from time to time. There was delay ranging from 13 days to 222 days in submission of form FCGPR on allotment of shares amounting to Rs.5,16,73,622/- to Reserve Bank of India in terms of Paragraph 9 (1) B of Schedule 1 of 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 as amended from time to time. In view of these contraventions, the company was imposed a penalty of Rs. 56,917/- vide Compounding order CA No.03 / 2017 dated December 12, 2017 which was paid by it on December 19, 2017.

3 Further, the company was found to have delayed filing the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the financial years 2014-15, 2015-16, 2016-17 and 2017-18, whereas, in terms of Para 9 (2) of FEMA 20 and Regulation 13.1 (3) of FEMA 20 (R), all Indian companies which have received Foreign Direct Investment in the previous including the current year, shall submit to the Reserve Bank of India, on or before the due date (as applicable) each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank of India from time to time. The company had submitted the returns for these four years only on June 14, 2019.

4 The applicant was granted a personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide letter dated November 20, 2019. Shri. Thomas Tharakan appeared for a personal hearing on December 02, 2019. The company admitted the contraventions for which compounding has been sought. During the hearing the company submitted that delay was inadvertent and unintentional and requested that a lenient view may therefore be taken in disposal of the application. 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 made in this context during the personal hearing.

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

Paragraph 9 (2) of FEMA 20 and Regulation 13.1 (3) of FEMA 20R, due to delay in filing of Annual Return on Foreign Liabilities and Assets for the Financial Years 2014-15, 2015-16, 2016-17 and 2017-18.

6 It has been declared in the compounding application dated June 17, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. A declaration has also been attached to the compounding application that the applicant is not under any enquiry /investigation /adjudication by any agency as on the date of 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 without prejudice to any 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 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. 40,000/- (Rupees Forty Thousand only) will meet the ends of justice.

8 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Paragraph 9 (2) of FEMA 20 and Regulation 13.1 (3) of FEMA 20R, 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.40,000/- (Rupees Forty Thousand only) which shall be deposited by the applicant with Reserve Bank of India, Foreign Exchange Department, Ernakulam North, Kochi - 682 018 by a Demand Draft drawn in favour of the “**Reserve Bank of India**” and payable at “**Thiruvananthapuram**” 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.

9 The above order is passed only in respect of contraventions of Paragraph 9 (2) of FEMA 20 and Regulation 13.1 (3) of FEMA 20R and does not restrict the right of any other authority to proceed against the company for any other violations/contraventions noticed at any point of time.

10 The application is disposed of accordingly.

Dated this the December 02, 2019.

Compounding Authority

sd/-

(Reeny Ajith)
Regional Director for Kerala and Lakshwadeep
Reserve Bank of India
Thiruvananthapuram