



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
3rd Floor, Main Building
Ram Bagh Circle, Tonk Road
Jaipur-302 004

Present

J. K. Nair
Assistant General Manager

Date: October 24, 2019
C.A. JAI 21/2019
In the matter of

M/s. IESA Mining Construction Private Limited
93 L Road, Bhupalpura
Udaipur - 313001 (Rajasthan)

(APPLICANT)

In exercise of the powers 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 July 24, 2019 (received at Reserve Bank of India, Jaipur on July 26, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in refund of excess share application money beyond the prescribed period, in terms of paragraph 2(3) 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 Notification No. FEMA 20(R)/2017-RB), as amended from time to time.



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

a) The applicant was incorporated on July 12, 2018 under the provisions of the Companies Act, 2013 (Registration Number U14290RJ2018PTC061782) and is engaged in the Mining business.

b) The applicant had received ₹ 94,635.00 (Rupees ninety four thousand six hundred and thirty five only) from its foreign investor Mr. Alfredo Quispe Herrera, Peru on January 23, 2019 and allotted 900 shares of face value ₹ 100.00 amounting to ₹ 90,000.00 (Rupees ninety thousand only). The excess share application money amounting to ₹ 4,635.00 (Rupees four thousand six hundred and thirty five only) was refunded by the applicant on May 20, 2019 with a delay of 41 days beyond the prescribed period, in contravention of paragraph 2(3) of Schedule-1 to FEMA 20(R)/2017-RB, whereby if the capital instruments are not issued within sixty days from the date of receipt of the consideration, the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/FCNR(B) accounts, as the case may be, within fifteen days from the date of completion of sixty days.

3. The applicant was given an opportunity for personal hearing in the matter before this office vide letter FED.JP.No.248/06.10.528/2019-20 dated October 11, 2019 for further submission in person and/or producing documents, if any, in support of its application for compounding of contravention of the provisions of FEMA. However the company vide its email dated October 12, 2019 expressed its inability to appear for personal hearing and submitted that all the details relating to compounding had already been submitted by them. They further requested, to take a liberal approach in the matter. Since the company is unable to avail of the opportunity for personal hearing, the application for compounding is, therefore, being considered on the basis of the averments made in the application as well as documents and submissions made in this context by the applicant.

4. It has been declared by the company that the particulars given in the compounding application dated July 24, 2019 are true and correct to the best of their knowledge and belief. It has also been declared in the declaration dated July 24, 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. The applicant has further declared that it 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.

5. I have given my careful consideration to the documents on record available with me. Accordingly, I hold that the applicant has contravened paragraph 2(3) of Schedule-1 to Notification No. FEMA 20(R)/2017-RB, on account of delay in refund of excess share application money beyond the prescribed period as detailed in paragraph 2(b), above. The contravention relates to an amount of ₹ 4,635.00 (Rupees four thousand six hundred and thirty five only) and the period of delay is one month and 11 days.

6. In terms of Section 13 of the Foreign Exchange Management Act, 1999, 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 that an amount of **₹ 77.00 (Rupees seventy seven only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely contravention of Paragraphs 2(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 of **₹ 77.00 (Rupees seventy seven only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Jaipur - 302004 by way of a demand draft drawn in favour of the "Reserve Bank of India" and payable at Jaipur -



- 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 this 24th day of October 2019.

-Sd/-

(J. K. Nair)

Assistant General Manager, Jaipur