



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

Present
Devika Gowrishankar
Deputy General Manager

Date: April 9, 2019
CA No. NDL 343/2018

In the matter of
Simpler Consulting India Private Limited
25, Birla Tower, 1st Floor, Barakhamba Road, New Delhi-110001
(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 November 16, 2018 (received at Reserve Bank of India, New Delhi on November 29, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, and (ii) delay in filing form FC-GPR after issue of shares in terms of paragraphs 9(1)(A) and 9(1)(B) 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 May 3, 2000 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.

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

(a) The applicant company was incorporated on January 5, 2012 and is engaged in the business of management consultancy activities.



(b) The applicant had reported the remittances received from its foreign investors viz. M/s Simpler Consulting LLC, U.S.A. and M/s Simpler Consulting Limited, U.K. on six occasions with delay ranging from 13 days to 4 years, 2 months and 12 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl.No.	Date of receipt	Amount (₹)	Date of Reporting
1	14.05.2012	495000	06.02.2013
2	14.06.2012	5000	27.07.2012
3	24.03.2014	58304.21	05.07.2018
4	24.03.2014	58304.21	05.07.2018
5	05.05.2015	3341466.08	05.07.2018
6	08.05.2015	32398	05.07.2018
	Total	39,90,472.50	

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

(c) The applicant had reported the allotment of shares to its foreign investors viz. M/s Simpler Consulting LLC, U.S.A. and M/s Simpler Consulting Limited, U.K. on four occasions with delay ranging from 10 days to 3 years, 9 months and 1 day beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl.No.	Date of allotment	Amount (₹)	Date of Reporting
1	09.11.2012	5000	19.12.2012
2	09.11.2012	495000	07.02.2013
3	11.09.2014	116606	12.07.2018
4	01.07.2015	3373846	12.07.2018
	Total	39,90,452	

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance



with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in the form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) Thus, there are contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-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. Anusha Srinivasan, Treasury Compliance & Pensions Lead, IBM India Private Limited, the parent company of the applicant and Shri Sunil Kumar, Director, Tax & Regulatory Services, Ernst & Young LLP, appeared for personal hearing on April 8, 2019 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that contraventions were without any *malafide* or wilful intention but were mainly due to delay in receipt of corrected FIRC by AD bank in the first tranche and due to change in management of the company in the remaining tranches. They 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 following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, on account of delay in reporting of foreign inward remittances received towards subscription of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹39,90,472.50 (Rupees Thirty Nine Lakh Ninety Thousand Four Hundred Seventy Two and Paise Fifty only) and the period of delay ranges from 13 days to 4 years, 2 months and 12 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, on account of delay in filing form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The



contraventions relate to an amount of ₹39,90,452/- (Rupees Thirty Nine Lakh Ninety Thousand Four Hundred and Fifty Two only) and the period of delay ranges from 10 days to 3 years, 9 months and 1 day.

5. It has been declared in the compounding application dated November 16, 2018, 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 dated December 27, 2018 furnished as part of 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 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 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 **₹51,835/- (Rupees Fifty One Thousand Eight Hundred and Thirty Five only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-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 **₹51,835/- (Rupees Fifty One Thousand Eight Hundred and Thirty Five 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 9th day of April 2019.

Sd/-
(Devika Gowrishankar)
Deputy General Manager