In the

RESERVE BANK OF INDIA

Foreign Exchange Department
3rd Floor, Main Building
Ram Bagh Circle, Tonk Road
Jaipur-302 004

Present

G Sreekumar
Regional Director

Date: February 05, 2019
C.A. JAI 12/2018

In the matter of

M/s. Xotik Travel and Forex Pvt. Ltd.
203-204, Geeta Enclave, Vinoba Marg,
C-Scheme, M.I.Road
Jaipur – 302001 (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 October 09, 2018 forwarded vide letter dated October 23, 2018 (received at Reserve Bank of India, Jaipur on October 23, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares ; (ii) delay in submission of form FCGPR on allotment of shares with Reserve Bank in terms of paragraph 9(1)(A) and paragraph 9(1)(B) respectively, 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, as then applicable. (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 December 16, 2011 under the provisions of the Companies Act, 1956 (Registration Number U67190RJ2011PTC037347 and is engaged in the business of travel agent / tour operator and foreign exchange money changing activities. The

applicant received foreign inward remittances from M/s Energy Horizon and Blue Resources Pte Ltd. of Singapore towards subscription to equity shares and reported the same to the Reserve Bank of India as below:
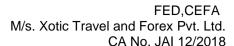
S.no	Amount of Inward Remittance in Rs.	Date of Receipt	Date of Reporting
1	2,20,03,382.00	22.02.2012	20.03.2012
2	30,99,380.00	02.01.2014	28.01.2014
3	49,43,258.00	04.12.2014	26.12.2014
4	43,33,400.00	10.06.2016	22.08.2016
5	96,41,036.00	21.07.2017	30.08.2017

The applicant reported receipt of remittances to the Reserve Bank of India, Jaipur on the dates indicated above. There was a delay of 10 days and 42 days beyond the stipulated time of 30 days in two cases. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03,2000, 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.

3.   The company allotted equity shares and filed FCGPR as indicated below:

S.no	Date of Allotment	Amount (INR)	Date of Reporting
1	12.05.2012	2,20,00,000.00	20.07.2012
2	15.06.2014	31,02,750.00	06.09.2014
3	01.06.2015	49,43,189.00	21.07.2015
4	20.07.2016	43,33,258.00	15.09.2016
5	22.07.2017	96,41,132.40	17.03.2018

The applicant filed the form FCGPR on allotment of shares with Reserve Bank of India, Jaipur with a delay of 20 days to 204 days beyond the stipulated time of 30 days in respect of abovementioned allotments. Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, 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 issue of shares to person resident outside India.

4.   The applicant was given an opportunity for personal hearing vide Reserve Bank's letter FE.JP.No.594/06.10.305/2018-19 dated January 14, 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, 1999. Shri Jitendra Dave, Director and Shri Piyush Kabra, Manager appeared on behalf of the applicant company on February 04, 2019 for personal hearing. During the personal hearing, it was submitted that the delays were due to procedural lapses and were not willful or with malafide intention. They requested to take a lenient view in the matter. 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 by the applicant during personal hearing and thereafter.

5.   It has been declared in the compounding application dated October 09, 2018 that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. It has been declared in the declaration dated 'Nil' furnished with the compounding application that the applicant was under enquiry /investigation /adjudication by Directorate of Enforcement as on the date of the application. Accordingly, RBI vide letter FE.JP.No.394/06.10.305/2018-19 dated November 15, 2018 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to rule 8(2) of the Compounding Rules to compounding of the contraventions sought to be compounded by the applicant. (A reminder dated December 24, 2018 was issued to DoE in this regard giving another seven days to respond). DoE vide its letter F.No.RBI /SDE /WR /B-205/2018/3517 dated January 01, 2019 has confirmed its 'no objection' to compounding by RBI in the matter. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

6.   I have given my careful consideration to the documents on record available with me. Accordingly, I hold that the applicant has contravened the following provisions of FEMA, 1999:

(a)   Paragraph 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 1,39,74,436.00 with duration of contravention ranging from ten days to 42 days.

(b)   Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FCGPR to the Reserve Bank of India after issue of shares to persons resident outside India. The contravention relates to an amount of ₹ 4,40,20,329.40 with the duration of contravention ranging from 20 days to 204 days.

7.   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 upto 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 ₹ 35,855.00 (Rupees thirty five thousand eight hundred and fifty five only) will meet the ends of justice.

8.   Accordingly, I compound the admitted contraventions namely contravention of paragraphs 9 (1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA.20/2000-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 ₹ 35,855.00 (Rupees thirty five thousand eight hundred and fifty five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Jaipur – 302 004   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 03, 2000 shall apply.

The application is disposed of accordingly.

Dated this   5th day of February 2019.

 -Sd/-

(G Sreekumar)
Regional Director for Rajasthan and
Chief General Manager, Jaipur.   page 4 of 4