



In the  
**Reserve Bank of India**  
**Foreign Exchange Department**  
**Mumbai Regional Office**  
**Main Building, 3rd floor**  
**Shahid Bhagat Singh Marg, Fort**  
**Mumbai 400 001**

**Present**  
**Shri J.K. Pandey**  
**Chief General Manager**

**March 27, 2019**

**MUM 822/2019**

In the matter of  
**M/s Canary Travel and Logistics Solutions Pvt Ltd**  
5th Floor, Wing A, Empire Plaza,  
LBS Marg, Vikhroli West,  
Mumbai 400083  
**(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 thereunder, I pass the following

**Order**

- 1** The applicant has filed the compounding application dated December 31, 2018, received at the Reserve Bank on January 09, 2019, for compounding of contravention/s 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 paragraphs under 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB):



- a) Para 9 (1) (A) under Schedule I to Notification No. FEMA 20/2000- RB: Delay in reporting receipt of foreign inward remittance towards subscription to equity
- b) Para 9 (1) (B): under Schedule I to Notification No FEMA 20/2000- RB: Delay in filing Form FC GPR to Reserve Bank after issue of shares to person resident outside India
- c) Para 5 under Schedule I to Notification No FEMA 20/2000- RB: issuance of shares without adherence to the Pricing Guidelines

- 2 The relevant facts of the company M/s Canary Travel and Logistics Solutions Pvt Ltd are as follows:

<b>Date of Incorporation</b>	September 22, 2016
<b>Its main activities are:</b>	Computer Programming , Consultancy and Related activities.

- 3 The applicant received foreign inward remittances from non-resident investors towards equity shares / compulsorily convertible preference shares/ compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

<b>Delay under 9(1)(A) &amp;/or Para 8</b>						
<b>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, and LSF stands for : Late Submission Fees</b>						
<b>S No/ LSF</b>	<b>Date of inward remittance (DD-MM-YY)</b>	<b>amount received (in INR)</b>	<b>Date of reporting to RBI</b>	<b>Para 9 (1) A/ Regulation 13.1 (1) delay</b>	<b>date of allotment / refund (DD-MM-YY)</b>	
1	03/01/17	6,000,000.00	29/05/18	<b>1Y 3M 25D</b>	22/09/16	<b>0</b>
2	09/01/17	116,000,000.00	29/05/18	<b>1Y 3M 19D</b>	09/01/17	<b>0</b>
<b>TOTAL</b>		122,000,000.00				

The applicant reported receipt of remittances to the Reserve Bank of India on dates indicated above with a delay ranging from 1Y 3M 19D to 1Y 3M 25D. Further, the applicant company delayed in reporting in case of all the remittances beyond the stipulated time of 30 days. Whereas, in terms of Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, 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.



- 4 The company allotted equity shares/compulsorily convertible preference shares/compulsorily convertible debentures and filed FC-GPRs as indicated below:

<b>Contravention under Para 9(1)(B)</b>						
<b>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees and FV stands for Face Value</b>						
<b>Sno/LSF</b>	<b>Date of allotment (DD-MM-YY)</b>	<b>number of shares</b>	<b>FV+ premium</b>	<b>Amount (FV*no of shares) (in INR)</b>	<b>Date of reporting (DD-MM-YY)</b>	<b>Para 9 (1) (B)</b>
1	22/09/16	594000	10	5,940,000.00	29/10/18	<b>2Y 0M 6D</b>
2	22/09/16	6000	10	60,000.00	29/10/18	<b>2Y 0M 6D</b>
3	09/01/17	396000	290	114,840,000.00	05/12/18	<b>1Y 9M 26D</b>
4	09/01/17	4000	290	1,160,000.00	05/12/18	<b>1Y 9M 26D</b>
	<b>TOTAL</b>			<b>122,000,000.00</b>		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 1Y 9M 26D to 2Y 0M 6D. Whereas, in terms of Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to RBI a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to Non Resident.

- 5 The Applicant company allotted equity shares to a person resident outside India, but failed to comply with the Pricing Guidelines stipulated in Para 5 of Notification No. FEMA 20/2000-RB. The details of allotments wherein the pricing guidelines were not complied are stated in the table below:

<b>S.No</b>	<b>Date of allotment (DD-MM-YY)</b>	<b>Date of bringing shortfall (DD-MM-YY)</b>	<b>Shortfall (INR)</b>	<b>Para 5 Delay</b>
1	22/09/16	03/01/17	6,000,000.00	0Y 3M 12D

The applicant company allotted the shares to the Non Resident investor without receiving consideration. Whereas, in terms of Para 5 of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company cannot issue shares to persons resident outside India without receiving the price determined as per any internationally accepted pricing methodology for valuation of shares on arm's length basis, duly certified by a Chartered Accountant or a SEBI registered Merchant Banker where the shares of the company are not listed on any recognised stock exchange in India.



- 6** The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated March 12, 2019. The applicant appeared for personal hearing on March 15, 2019, during which Mr Mathew Thomas, Director, Mr Ninad Umranikar, Secretarial Officer, Ms Snehal Nigudkar, Secretarial Officer and Mr K. Ramasubramanian, Consultant represented the applicant in the cabin of Shri J.K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing a lenient view may 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 by the applicant during personal hearing and thereafter.
- 7** I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:
- a)** Paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed above. The contravention relates to total amount of Rs.122,000,000 (Rupees Twelve Crore Twenty Lakh and Zero Paise Only) and with a delay ranging from minimum 1Y 3M 19D to maximum 1Y 3M 25D approximately.
  - b)** Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to total amount of Rs.122,000,000 (Rupees Twelve Crore Twenty Lakh and Zero Paise Only) and with a delay ranging from minimum 1Y 9M 26D to maximum 2Y 0M 6D approximately.
  - c)** Paragraph 5 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to allotting the shares to a person resident outside India without receiving consideration determined in accordance with FEMA guidelines and the contravention amount relates to Rs. 60,00,000.00 (Rupees Sixty Lakh Only) and the delay is of 3M 12D approximately.
- 8** It has been declared in the compounding application dated December 31, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to 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/him/her 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.



- 9 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.447,250 (Rupees Four Lakh Forty Seven Thousand Two Hundred Fifty and Zero Paise Only) will meet the ends of justice.
- 10 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (A), Para 9 (1) (B) and Para 5 under Schedule 1 of 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 Rs. 447,250 (Rupees Four Lakh Forty Seven Thousand Two Hundred Fifty and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai 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.
- 11 The above order is passed only in respect of contraventions of Para 9 (1) (A), Para 9 (1) (B) and Para 5 under Schedule 1 of Notification No. FEMA 20/2000-RB 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.
- 12 The application is disposed of accordingly.  
dated: March 27, 2019

**Compounding Authority**

**(J.K. Pandey)**  
**Chief General Manager**