



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Suman Ray
Chief General Manager

Date: November 22, 2019
C.A.943/2019

In the matter of

M/s. CGWW Cargo Worldwide India Pvt Ltd.,
No.4/302/8-B, Ayyasamy colony
Muthammal colony
Thoothukudi – 628 008

(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 August 07, 2019 (received at Reserve Bank on August 13, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in allotment of shares in terms of Paragraph 2(2) of Schedule I to Foreign Exchange Management (Transfer or



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Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on October 29, 2018 under the provisions of the Companies Act, 2013 (Registration No. U61100TN2018PTC125523) and is engaged in the activities of shipping cargo. The applicant received nine foreign inward remittances amounting to ₹1,75,21,265.00 between 17.12.2018 to 10.07.2019 from Mr. Lionel Mahinda Perera, USA towards subscription to capital instruments. Against the above remittances, the company allotted shares on 14.05.2019 and 01.08.2019, filed the Forms FC GPR with Reserve Bank.

3. The company allotted capital instruments against the remittances as detailed below:

SI. No.	Date of receipt	Amount (₹)	Date of Allotment
1	17.12.2018	17,88,063.00	14.05.2019
2	28.12.2018	34,96,500.00	14.05.2019
3	18.01.2019	7,09,575.00	14.05.2019
4	18.01.2019	10,65,000.00	14.05.2019
5	20.02.2019	35,53,875.00	14.05.2019
6	12.03.2019	17,37,125.00	14.05.2019
7	09.04.2019	17,31,688.00	14.05.2019
8	03.06.2019	17,31,182.00	01.08.2019
9	10.07.2019	17,08,257.00	01.08.2019

The company allotted shares with delays ranging from three days to two months 29 days approximately beyond the stipulated time of 60 days from the date of receipt of the consideration in terms of remittances at SI.No.1 to 6. Whereas in terms of paragraph 2(2) of Schedule I to Notification No. FEMA 20R/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within 60 days from the date of receipt of the consideration.

4. The applicant was advised about the contravention vide memorandum dated July 18, 2019. The applicant has filed a compounding application dated August 07, 2019



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wherein it has been declared in the compounding application that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration 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/him/her thereafter. Accordingly, the above contravention which is 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. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated November 20, 2019 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing scheduled on November 22, 2019 during which Shri Kingston V, Director and Shri Alagar R, Advisor, represented the applicant. The authorized representatives of the applicant admitted the contravention as stated in paragraph 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. In view of the above, they requested Reserve Bank 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

- a) Paragraph 2(2) of Schedule I to Notification No. FEMA 20R/2017-RB due to delay in allotment of shares. The contravention relates to an amount of ₹1,23,50,138.00



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with the duration of contravention ranging from three days to two months 29 days approximately.

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 contravention is to be compounded and I consider that an amount of **₹1,11,751/-** (Rupees one lakh eleven thousand seven hundred and fifty one only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 2(2) of Schedule I 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 **₹1,11,751/-** (Rupees one lakh eleven thousand seven hundred and fifty one only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 twenty second day of November, 2019.

Sd/-

Suman Ray

Chief General Manager