



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad – 380014

Present
Ashish Gogia
Assistant General Manager

November 13, 2019
CEFA.CO.ID.11852 / C.A. No. AHM - 137 / 2018-19

Matter
DRA Mineral Services LLP
(LLP Identification Number: AAH-0466)

306, Maruti Sharnam, Anand – Vidhyanagar Road, Anand- 388001

गुजरात / Gujarat

(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:



Order

DRA Mineral Services LLP (hereinafter referred to as applicant) has filed the application dated June 28, 2019, complete in all respects, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the Regulations issued thereunder. The contravention sought to be compounded is delay beyond 30 days in submitting a report in form Foreign Direct Investment (FDI) – LLP (I) from the date of receipt of amount of consideration to the Reserve Bank, through Authorised Dealer bank (AD bank) towards capital contribution in the Limited Liability Partnership (LLP) as required under Paragraph 6 (i) of Schedule 9 to Notification No. FEMA 20/2000-RB dated May 3, 2000 as then applicable, (hereinafter referred to as Notification No. FEMA 20/2000-RB) and A.P. (Dir Series) Circular No. 123 dated April 16, 2014. The said Regulations have been issued by the Reserve Bank of India in exercise of its powers under the provisions of the FEMA, 1999.

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

(i) The applicant was incorporated on July 29, 2016 under the provisions of the Limited Liability Partnership Act, 2008 (LLP Identification Number: AAH-0466). The applicant has received one foreign inward remittance amounting to **₹7,27,272/-** under the automatic route from “a person resident outside India viz. DRA Africa Holdings (PTY) Ltd., South Africa as consideration towards capital contribution in the LLP on behalf of Minoplex International, Mauritius (Subsidiary of DRA Africa Holdings).

(ii) The receipt of the foreign inward remittance from the “person resident outside India” was reported by the applicant by filing form FDI-LLP (I). The details of remittance are given below:



Reporting under Paragraph 6(i) of Schedule 9 to Notification No. FEMA 20/2000-RB
dated May 3, 2000: Contravention detected

(Table 1)

Sl. No.	Name of the remitter	Amount of foreign inward remittance (₹)	Date of receipt	Date of reporting by company to RBI*	Delay beyond prescribed period of 30 days
1	DRA Africa Holdings (PTY) Ltd., South Africa	7,27,272/-	31-03-2017	23-06-2017	54

* For the purpose of calculation of delay under Paragraph 6(i), date of reporting by the applicant to AD bank is taken as date of reporting to RBI.

(a) As indicated in the Table 1 above, the applicant reported the receipt of one foreign inward remittance amounting to ₹7,27,272/- as consideration towards capital contribution in the of LLP to the Ahmedabad Regional Office of the Reserve Bank of India with a delay of 54 days beyond the prescribed period of 30 days from the date of receipt of foreign inward remittance.

(b) In terms of Regulation 5(9) of the Notification No. FEMA 20/2000-RB dated May 3, 2000, “A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (other than an entity in Pakistan or Bangladesh), not being a Foreign Portfolio Investor or Foreign Institutional Investor or Foreign Venture Capital Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition / transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.” Further, Paragraph 6(i) of Schedule 9 to Notification No. FEMA.20/2000-RB dated May 3, 2000 mandates that the reporting of foreign investment in LLPs and disinvestment / transfer of capital contribution or profit shares between a resident and a non-resident shall be made in a manner as prescribed by Reserve Bank of India from time to time. In terms of A.P. (Dir Series) Circular No. 123 dated April 16, 2014 an LLP receiving foreign investment shall submit Form FDI-LLP (I) to the Regional Office concerned of the RBI in whose



jurisdiction the registered office of LLP is situated, within 30 days from the date of receipt of amount of consideration.

(c) The applicant has thus failed to submit the report in Form FDI-LLP (I) within the time frame as required under paragraph 6(i) of Schedule 9 to Notification No. FEMA 20/2000-RB dated May 3, 2000 and A.P. (Dir Series) Circular No. 123 dated April 16, 2014, thereby contravening the provisions of the said Notification.

3. The applicant was given an opportunity for personal hearing vide letter FE.AH.No.479/06.04.15/CEFA/2019-20 dated October 16, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide its letter dated October 17, 2019 requested to dispose of its application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. The applicant admitted in its application to the contravention for which compounding has been sought and stated that the delay occurred due to inadvertence and without any malafide intention. Further, it has stated that it is willing to accept any direction/ order of the Compounding Authority in connection with their compounding application. The application for compounding is, therefore, being considered on the basis of the statements made in the application as well as other documents and submissions made in this context by the applicant.

4. 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 also been declared that the applicant was not under any enquiry / investigation / adjudication by any investigating 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, 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 and submissions made by the applicant in its application. I am satisfied and hold that the applicant has contravened the statutory requirement in terms of Paragraph 6(i) of Schedule 9 to Notification No. FEMA 20/2000-RB dated May 3, 2000 and A.P. (Dir Series) Circular No. 123 dated April 16, 2014.

6. In terms of Section 13 of the FEMA, 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 on the amount for which the contraventions are to be compounded and therefore, I consider that the penalty of ₹10,170/- (Rupees Ten Thousand One Hundred Seventy only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely contravention of Paragraph 6(i) of Schedule 9 to Notification No. FEMA 20/2000-RB dated May 3, 2000 and A.P. (Dir Series) Circular No. 123 dated April 16, 2014 by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹10,170/- (Rupees Ten Thousand One Hundred Seventy only). The same shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad - 380014 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Ahmedabad 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 the 13th day of November, 2019.

Sd/-

(Ashish Gogia)

Assistant General Manager