



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Smt. Rachna Dikshit
Regional Director (Punjab ,Haryana and U.T. of Chandigarh)
Chief General Manager, Chandigarh

Date: April 04, 2019
CA No CHA 37/2019

In the matter of

M/s Flying Trade India Private Limited
Amanatpur Road
P.O Nussi
Jalandhar-144004

(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 there under, I pass the following

Order

The applicant has filed a compounding application dated March 19, 2019 (received at the Reserve Bank on March 28, 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 pertain to (i) delay in submission of FC-GPR to the Reserve Bank after issue of shares (ii) delay in receiving of the inflow amount beyond stipulated days after issue of shares to a person resident outside India which are in contravention of Para 9(1) (B) and Para 8 respectively of Schedule 1 to Foreign Exchange Management (Transfer or issue of Security by a person Resident outside India) Regulation, 2000 notified vide Notification No. 20/ 2000 RB dated May 3, 2000 and as amended from time to time(hereinafter referred to as Notification No. FEMA 20 / 2000-RB).

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

The applicant Company, M/s Flying Trade India Private Limited is a private Limited company incorporated on May 25, 2016 under the Companies Act 2013. The applicant is



engaged in the business of Rice Milling.

3. The applicant had received foreign inward remittance and corresponding form FC-GPR was submitted for issue of shares to foreign investor, with delay as indicated below:-

| <u>Sr. No</u> | <u>Date of inflow</u> | <u>Amount</u> | <u>Shares issued on</u> | <u>Share Amount</u> | <u>Date of reporting to RBI</u> | <u>Delay beyond 30 days</u> |
|---------------|-----------------------|----------------|-------------------------|---------------------|---------------------------------|-----------------------------|
| 1 | 01.12.2016 | 6,82,10,000.00 | 20.12.2016 | 6,82,10,000.00 | 17.02.2017 | 29 Days |
| 2 | 14.07.2017 | 1,02,924.00 | 25.05.2016 | 99,990.00 | 01.12.2017 | 525 Days |

The applicant reported the allotment of shares to Reserve Bank with delay ranging from **29 days to 525 days**. The delay in reporting to Reserve Bank of India in form FC-GPR, beyond the prescribed period in respect of allotment of the above shares is in contravention of paragraph 9(1) (B) of Schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank of India a report in Form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.

4. The applicant had received foreign inward remittance with delay beyond stipulated days after issue of MoA shares to a person resident outside India as indicated below.

| <u>Sr.No</u> | <u>Amount</u> | <u>Share Amount</u> | <u>Shares issued on</u> | <u>Date of inflow</u> | <u>Delay in receiving of inflow</u> |
|--------------|---------------|---------------------|-------------------------|-----------------------|-------------------------------------|
| 1 | 1,02,924.00 | 99,990.00 | 25.05.2016 | 14.07.2017 | 355 Days |

As mentioned above, there was delay of **355 days** in receiving of inflow beyond stipulated time. This is contravention of **para 8 of schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000**.

5. The applicant was given an opportunity for personal hearing vide letter No.CHD.FE.CG/FID/730/03.01.508/2018-19 dated March 29, 2019 for submission in person and/or producing documents, if any, in support of the application. Sh. Dinesh Manhas, Director (Operations) and Mr Mohit Saluja, Company secretary of the company appeared for the personal hearing on April 03, 2019. During the personal hearing, the representatives of the applicant admitted the contravention committed by them for which they have sought compounding. The representative submitted that the contraventions



were due to lack of awareness of the procedural requirements and were not intentional and have

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requested for taking a lenient view in the matter. The application is, therefore, being considered on the basis of the averments made in the application, and documents produced.

6. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

- a. Paragraph 9 (1) (B) of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FCGPR to Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of **Rs. 6,83,09,990.00** with delay ranging from **29 days to 525 days**.
- b. Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in receiving of the inflow amount beyond stipulated days as detailed in paragraph 4 above. The contravention relates to an amount of **Rs 99,990.00** with delay of **355 days**.

7. It has been declared in the compounding application dated March 19, 2019 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 undertaking, 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 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.

8. 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 contravention is to be compounded and I consider that an amount of **Rs. 25,649.00 (Rs Twenty Five thousand Six Hundred Forty Nine only)** will meet the ends of justice.



9. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contraventions committed by the applicant namely, Para 9(1) (B) and Para 8 of schedule I to Foreign Exchange Management (Transfer or issue of Security by a person Resident Outside India) Regulation, 2000 notified vide Notification No.

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20/2000RB dated May 3, 2000 read with AP(Dir Series) Circular No 73 dated June 8, 2007 on the facts discussed above, on payment of an amount of **Rs. 25,649.00 (Rs Twenty Five thousand Six Hundred Forty Nine only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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 this the 04th day of April 2019.

Sd/-

Rachna Dikshit

Regional Director

Chief General Manager