



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
V.G. Sekar
Chief General Manager

Date: August 26, 2019
CA No. NDL 437/2019

In the matter of
Keu International Private Limited
Plot No. 5, Pvt No LGF 05A, Lower G/F, Road No. 34, Pusa Road, W.E.A. Karol
Bagh, Near Hanuman Mandir, New Delhi - 110005

(Applicant)

In exercise of the powers under Section 15(1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made thereunder, I pass the following Order.

ORDER

The applicant has filed the compounding application dated April 08, 2019 (received at Reserve Bank of India, New Delhi on April 24, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder, against the Memorandum issued on March 12, 2019. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) delay in issue of shares after receipt of remittance in terms of paragraphs 9(1)(A), 9(1)(B) and 8 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.

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



- (a) The applicant company was incorporated on July 27, 2012 and is engaged in the business of manufacturing and trading of clothing accessories viz., fancy buttons, threads, zips, belts, interlining etc.
- b) The applicant had reported the receipt of foreign inward remittance of ₹1,09,44,000/- on September 04, 2012 from its foreign investor, M/s EU Design HK Ltd., Hongkong, on July 15, 2017 with a delay of 4 years, 9 months and 11 days beyond the prescribed period in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to the Schedule along with a copy/ies of documents prescribed therein.
- c) The applicant had reported issue of shares on three occasions to its foreign investor, M/s EU Design HK Ltd., Hongkong, and reported two of them with delay of 5 years & 10 days and 5 years & 12 days, as detailed hereunder, beyond the prescribed period in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No	Date of issue	No. of shares issued	Amount (₹)	Date of reporting in Form FC-GPR
1	04.09.2012	5,000	50,000.00	14.10.2017
2	04.09.2012	4,95,000	49,50,000.00	16.10.2017
Total		5,00,000	50,00,000.00	

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates not later than 30 days from the date of issue of shares, a report in Form FC-GPR together with documents prescribed therein. Further, there was delay in reporting the third issue of shares which was in contravention of the provision of Regulation 13.1(2) of FEMA 20(R)/2017-RB, as then applicable, and the applicant has paid Late



Submission Fee (LSF) for the said contravention as required in terms of Regulation 13.2 of FEMA 20(R)/2017-RB.

d) Out of the foreign inward remittance of ₹1,09,44,000/- the company issued 5,00,000 shares for a consideration of ₹ 50,00,000/- on September 04, 2012. For the remaining share application money of ₹59,44,000/-, the company sought RBI approval on February 23, 2018 for issue of additional share to M/s EU Design HK Ltd., Hongkong and approval for the same was granted on August 09, 2018. The company issued 4,95,333 shares on August 24, 2018 for a consideration of ₹59,43,996/- with a delay of 4 years, 11 months and 20 days beyond the prescribed period in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, a company in India issuing shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by inward remittance through normal banking channels, or by debit to NRE / FCNR account of the person concerned maintained with an authorised dealer / authorised bank or by debit to a non-interest bearing Escrow account (in Indian Rupees) maintained in India with an AD bank in accordance with Foreign Exchange Management (Deposit) Regulations, 2000. Provided that if the shares or convertible debentures are not issued within 180 days from the date of receipt of the inward remittance or date of "*debit to NRE / FCNR (B) / Escrow account*", the amount of consideration so received shall be refunded to the person concerned by outward remittance through normal banking channels or by credit to his NRE / FCNR (B) / Escrow account", as the case may be. Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons permit an Indian company to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Sudesh Balecha, Company Secretary and Ms Pooja Sharma, Management Trainee, appeared for personal hearing on August 26, 2019 on behalf of the applicant. The representatives of the applicant admitted the contraventions



committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that the contraventions were without any malafide or wilful intention but were mainly due to delay in receipt of FIRC from the bank with correct name of the investee company as the original FIRC was issued with incorrect name as also on account of non-availability of the professional with knowledge of FEMA compliances. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

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

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹1,09,44,000/- (Rupees One Crore Nine Lakh and Forty Four Thousand only) and the period of delay is 4 years, 9 months and 11 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in filing Form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹50,00,000/- (Rupees Fifty Lakh only) and the periods of delay are 5 years & 10 days and 5 years & 12 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in issue of shares after receipt of remittance, as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹59,44,000/- (Rupees Fifty Nine Lakh Forty Thousand only) and the period of delay is 4 years, 11 months and 20 days.

5. It has been declared in the compounding application dated April 08, 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 also been declared in the declaration dated July 31, 2019 furnished as a part of 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. 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.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules, 2000. Accordingly, it stands to reason that payment of an amount of **₹3,76,720/- (Rupees Three Lakh Seventy Six Thousand Seven Hundred and Twenty only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 8, 9(1)(A), and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹3,76,720/- (Rupees Three Lakh Seventy Six Thousand Seven Hundred and Twenty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi 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 the 26th day of August 2019.

Sd/-
(V.G. Sekar)
Chief General Manager