



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: June 06, 2019

CA No. CHA 44/2019

In the matter of

M/s Oakway International Schools
SCO 24, Upper Ground Floor
Surya Shopping Complex,
National road, Ghumar Mandi
Ludhiana, Punjab-141001

(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 April 29, 2019 for compounding of contravention of the provision of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) the delay in issuance of shares beyond stipulated time period of 60 days after receiving inflow from a person resident outside India and (ii) Delay in Filing of FLA returns; in terms of Paragraph 2 of Schedule 1 and Regulation 13.1(3) of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB



dated November 7, 2017, 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 November 29, 2017 under the Companies Act 2013. The applicant is engaged in the activities of providing General school education in the second stage of the secondary level (Senior/Higher secondary).

3. The applicant had received foreign inward remittance and issued shares to foreign investor with delay beyond stipulated period of 60 days as indicated below.

Date of inflow	Amount of inflow	Date of issue of shares	Delay
03.01.2018	60,76,700	18.05.2018	75 Days
08.02.2018	40,59,200	18.05.2018	39 Days

As mentioned above, there was delay **ranging from 39 Days to 75 Days** in issuing shares beyond stipulated time of 60 days after receipt of inflow. This is contravention of **para 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017.**

4. The company has delayed in filing FLA Return (Foreign liabilities and Assets) for year 2017-18 as shown below:

Sr. No.	Particulars	Financial Year	Due date of filing	Date of actual filing
1	FLA Return	2017-18	15.07.2018	09.05.2019

The applicant had filed FLA return for FY 2017-18 with delay. Whereas, in terms of Regulation 13.1(3) of Notification No. FEMA 20R/2017-RB dated November 07, 2017 as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

5. The applicant was given an opportunity for personal hearing vide our letter No. CHD.FE.CG/FID/1171/03.01.564/2018-19 dated May 27, 2019 for further submission in person and/or producing documents, if any, in support of the application. However, the applicant vide its e-mail dated May 28, 2019 had informed that it was opting out of personal hearing and requested to proceed with the compounding. The application for compounding



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is, therefore, being considered on the basis of the averments made in the application along with the documents produced.

6. It has been declared in the compounding application dated April 29, 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.

7. 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 FEMA provisions issued in terms of:

- a. **Paragraph 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017** due to delay in issuance of shares beyond stipulated time period of 60 days as detailed in paragraph 3 above. The contravention relates to an amount of **Rs. 1,01,35,900 /-** with a delay ranging from **39 to 75 days**.
- b. **Regulation 13.1(3) of Notification No. FEMA 20(R)/ 2017- RB dated November 07, 2017** due to delay in Filing of **FLA return for the Financial Year 2017-18** as detailed in paragraph 4 above.

8. 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 amount of penalty of **Rs. 1,10,680.00 (Rs One Lakh Ten Thousand Six Hundred Eighty only)** will meet the ends of justice.



9. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000,

I compound the admitted contravention committed by the applicant, namely contravention

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Of para 2 of Schedule I and Regulation 13.1(3) to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB dated November 7, 2017 on the facts discussed above, on payment of an amount of **Rs. 1,10,680.00 (Rs One Lakh Ten Thousand Six Hundred Eighty 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: the 06th day of June 2019.

Sd/-
Rachna Dikshit
Regional Director
Chief General Manager



FED, CEFA
Compounding of Contravention under FEMA, 1999
Oakway International Schools [CA No. CHA 44 /2019]