



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department

Central Office Cell, 2nd floor

6, Sansad Marg

New Delhi - 110 001

Present

**R.K. Moolchandani**

**Chief General Manager**

Date: June 27, 2019

C.A. No.98 /2019

In the matter of

**M/s Quanticate International Limited, Branch Office**

**4<sup>th</sup> floor, HM Vibha Towers**

**Site No. 66/5-25 Laskar Hosur Road**

**Adegodi, Koramangala**

**Bengaluru - 560030**

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 M/s Quanticate International Limited, Branch Office (BO), has filed an application dated NIL (received in RBI on February 25, 2019 for compounding of contravention of the provisions of Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded relate to payment of expenses of the Branch Office directly by the parent



company to the third party, in contravention of Para 6 and Para 11 of RBI approval letter dated September 24, 2010.

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

- a. The applicant Quanticate International Ltd established a Branch Office in India with the permission of Reserve Bank of India vide letter No. FE.CO.FID/7508/10.83.318/2010-11 dated September 24, 2010
- b. The applicant is engaged in the business of statistical consultancy, statistical programming, pharmacovigilance, analyzing and data management services to its Head Office
- c. The Branch Office had an account with RBS Bank to carry out its transactions. After the closure of RBS operations in India, the Branch Office closed the account maintained with RBS on August 19, 2016 and opened a new bank account with Standard Chartered Bank on September 19, 2016.
- d. Though the BO was having an account with Standard Chartered Bank, the remittances of ₹.5,40,42,300/- (Rupees Five crore forty lakh forty two thousand and three hundred only) were made directly by the parent company of the BO to a third party account (SKP Tricor Corporate Service Pvt. Ltd.) for payment of expenses particularly their staff, landlord and supplier in India. The remittances were paid during the period September 21, 2016 to March 23, 2017.

The amount and date of receipt of remittance is as below:

<b>Date of receipt of remittance</b>	<b>Amount (INR)</b>
21 Sept 2016	7,998,600
23 Sept 2016	1,199,300
25 Oct 2016	6,899,300
18 Nov 2016	5,749,300
06 Dec 2016	9,199,300
24 Jan 2017	59,99,300



22 Feb 2017	59,99,300
08 March 2017	999,300
20 March 2017	4,999,300
23 March 2017	4999,300
<b>Total</b>	<b>5,40,42,300</b>

- e. Para 6 of the permission letter, referred to at para 2(a) above, states that the entire expenses of the office in India will be met either out of the funds received from abroad through normal banking channels or through income generated by it in India by undertaking permitted activities.
- f. Para 11 of the permission letter states that the office may approach AD Category -1 Bank in India to open an account for its operation in India. Credits to the account should represent the fund received from Head Office through normal banking channels for meeting the expenses of the office and profit made by BO. Debits of this account shall be for the expenses incurred by the BO and towards remittance of profit/winding up proceeds.
- g. Para 3(ii) of FED Master Direction No.10/2015-16 dated January 1, 2016 states that a BO may approach any AD Category-I Bank in India to open an account for its operations in India. Credits to the account should represent the funds received from Head Office through normal banking channels for meeting the expenses of the office and any legitimate receivables arising in the process of its business operations. Debits to this account shall be for the expenses incurred by the BO and towards remittance of profit / winding up proceeds.
- h. Further, in terms of Para 2(i) of FED Master Direction No.10/2015-16 dated January 1, 2016, an AD Category - I bank should be identified by the applicant with whom they intend to pursue banking relations in India.
- i. The payment by the parent company of the BO directly to a third party and not in the account which is maintained with the designated AD Category – 1 bank, is contravention of Para 6 and Para 11 of RBI approval letter dated September



24, 2010, read with Para 3(ii) and 2 (i) of FED Master Direction No.10/2015-16 dated January 1, 2016.

- j. The total amount which was remitted by the parent company to a third party i.e ₹.5,40,42,300/- (Rupees Five crore forty lakh forty two thousand and three hundred only) has been considered as the amount of contravention.
- k. The first remittance was made on September 21, 2016 and contravention was regularized on January 18, 2019. Hence the period of contravention has been treated from September 21, 2016 to January 18, 2019 i.e. 2 years 3 months and 27 days.

The amount and period of contravention is as follows:

**Amount:** ₹.5,40,42,300/- (Rupees Five crore forty lakh forty two thousand and three hundred only)

**Period:** 2 years 3 months and 27 days i.e from September 21, 2016 to January 18, 2019.

**Contravention:**

3. The company has contravened Para 6 and Para 11 of RBI approval letter dated September 24, 2010, read with Para 3(ii) and 2(i) of FED Master Direction No.10/2015-16 dated January 1, 2016.

Para 6 of the permission letter states that the entire expenses of the office in India will be met either out of the funds received from abroad through normal banking channels or through income generated by it in India by undertaking permitted activities.

Para 11 of the permission letter states that the office may approach AD Category -1 Bank in India to open an account for its operation in India. Credits to the account should represent the fund received from head office through normal banking channels for meeting the expenses of the office and profit made by branch office. Debits of this account shall be for the expenses incurred by the branch office and towards remittance of profit/winding up proceeds.

Para 3(ii) of FED Master Direction No.10/2015-16 dated January 1, 2016 states that a BO may approach any AD Category-I Bank in India to open an account for its operations in India. Credits to the account should represent the funds received from



Head Office through normal banking channels for meeting the expenses of the office and any legitimate receivables arising in the process of its business operations. Debits to this account shall be for the expenses incurred by the BO and towards remittance of profit / winding up proceeds.

In terms of Para 2(i) of FED Master Direction No.10/2015-16 dated January 1, 2016, an AD Category - I bank should be identified by the applicant with whom they intend to pursue banking relations in India.

The above contravention was regularized by FED, CO Cell, New Delhi vide letter No. FE.CO.FID/529/10.83.318/2018-19 dated January 18, 2019.

4. The applicant was given an opportunity for personal hearing vide email dated June 25, 2019 for further submission in person and /or producing documents, if any, in support of the application. Applicant's representatives Shri. Satish Alur accompanied by four officials appeared representing the applicant, for the personal hearing on June 27, 2019. The representatives of the applicant admitted the contravention committed by the applicant for which they have sought compounding and submitted that the contravention was caused owing to the undue delay on the part of Standard Chartered Bank and requested to take a lenient view.

5. It has been declared in the compounding application that the particulars given by the company 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 company is 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 contravention which is being compounded in this order is 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. The application for compounding is, therefore, being decided on the basis of the



averments/submission made in the application as well as other documents and also submissions made in this context by the Shri. Satish Alur and other four representatives during the personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the company has contravened Para 6 and Para 11 of RBI approval letter dated September 24, 2010, read with Para 3(ii) and 2(i) of FED Master Direction No.10/2015-16 dated January 1, 2016. The contravention amount (i.e the total amount which was remitted by the parent company to a third party), therefore, comes to ₹ 5,40,42,300/- (Rupees Five crore forty lakh forty two thousand and three hundred only) and the period of contravention stands at 2 years 3 months and 27 days (i.e. from the date first remittance to the date of regularization).

7. In terms of Section 13 of FEMA, 1999, any person contravening, inter alia any provision of the Act or any condition subject to which an authorization is issued by the Reserve Bank, shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. However, after considering the submissions made by the applicant and the entire facts and circumstances of the case, I consider that payment of an amount of ₹2,46,169/- (Rupees Two lakh forty six thousand one hundred and sixty nine only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound the admitted contravention namely the contravention of Para 6 and Para 11 of RBI approval letter dated September 24, 2010 read with Para 3(ii) and 2(i) of FED Master Direction No.10/2015-16 dated January 1, 2016, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹2,46,169/- (Rupees Two lakh forty six thousand one hundred and sixty nine only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 2<sup>nd</sup> Floor, 6, Sansad Marg, New Delhi – 110 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 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 03, 2000, as amended from time to time, shall apply.

The application is disposed accordingly.

Dated this the 27<sup>th</sup> day of June 2019

**R.K. Moolchandani**  
**Chief General Manager**