



In the

Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

Rajendra Srivastava
Assistant General Manager

Date: March 20, 2019
C.A.091/2019

In the matter of

M/s Tekray India Pvt. Ltd.
7/1, Jadu Nath Sarkar Road
Formerly Lake Terrace, PS Lake
Kolkata-700 029
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated December 18, 2018 (received at Reserve Bank on December 27, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded is for delay in submission to the Reserve Bank of Form FC-GPR after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of Paragraph 9(1)(B) and also for delay in refund of the excess



amount of inward remittances beyond the stipulated 180 days of the receipt of inflow to a person resident outside India in terms of Paragraph 8 to 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 03, 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, M/s Tekray India Pvt. Ltd., was incorporated under Companies Act, 2013, on June 24, 2016 and is in the business of Wholesale of scientific, medical and surgical machinery and equipment {NIC-2008: 46596}

The company had received one foreign inward remittance towards subscription to equity shares from its foreign investor, M/s Tekray Private Limited, Hong Kong, China.

3. The applicant allotted equity shares on June 24, 2016 to the foreign investor within the stipulated period from receipt of foreign inward remittances as detailed below:

Table 2: Allotment of shares

Sl. No.	Name of Investor	Inflow (INR)	Date of inflow	Date of allotment of shares	Amount for which shares issued (INR)	Delay in receiving inflow after allotment of shares
1	Tekray Private Limited, China	1,32,806.00	20-Oct-16	24-Jun-16	99,000.00	118

The applicant refunded the excess inward remittance as detailed below:



Table 3: Refund of excess amount

S. No.	Inflow (INR)	Date of inflow	Amount for which shares issued (INR)	Excess Amount (INR)	Date of refund	Delay in refund beyond 180 days
1	1,32,806.00	20-Oct-16	99,000.00	33,806.00	10-May-18	387

In terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, the shares are to be allotted within 180 days after the receipt of inflow. However, the applicant has issued shares to the remitter before 118 days of receipt of inflow, and also further refunded the excess amount to the remitter 387 days beyond the stipulated period of 180 days from the receipt of remittance.

4. The applicant reported the allotment of shares in form FC-GPR to the Reserve Bank on dates as indicated in Table 4 below.

Table 4: Allotment of shares to foreign investors and reporting thereof

Sl. No.	Amount for which shares have been issued (INR)	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	1,32,806.00	24-Jun-16	28-Feb-17	219

Delay of 219 days has been observed in filing of the second FC-GPR beyond the stipulated period of 30 days from the allotment of shares. Whereas in terms of para 9(1)(B) of schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares in accordance with these regulations has to submit to the Reserve Bank of India a report in form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to person resident/ outside India.



5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.1353/06.01.002/2018-19 dated February 28, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant, however, did not appear for the hearing. Hence, the compounding order is being issued ex-parte.

6. It has been declared in the compounding application dated December 18, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration 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/him/her 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. The contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.

7. I have given careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened provisions of paragraph 8 and 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of INR 2,99,418.

8. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances which led to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount



of Rs. 56,044 (Rupees Fifty six Thousand and Forty Four only) will meet the end of justice.

9. Accordingly, I compound the admitted contravention viz. Paragraph 8 of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount Rs. 56,044 (Rupees Fifty six Thousand and Forty Four only), which are to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

10. The application is disposed off accordingly.

Dated this Twentieth day of March, Two Thousand and Nineteen.

Sd/
(Rajendra Srivastava)
Assistant General Manager