



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
Ashish Gogia
Assistant General Manager

May 13, 2019
CEFA.CO.ID.11558 / C.A. No. AHM - 126 / 2018-19
Matter
Zhenyu Technology Pvt. Ltd.
(CIN: U25208GJ2016PTC092475)

Shed No. 6, C1/284 Road, AJI GIDC, Rajkot – 360003

गुजरात / Gujarat

(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:



Order

The applicant has filed compounding application dated January 04, 2019 (received at Reserve Bank of India on February 15, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in allotment of shares / refund of share application money beyond stipulated period of 180 days; in terms of paragraphs 9 (1) (A) 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 3rd May 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 was incorporated on June 15, 2016 under the provisions of the Companies Act, 2013 (CIN: U25208GJ2016PTC092475). The company is engaged in manufacturing of rubber and plastic products, bearing NIC Code: 22199. The applicant company has received one inflow amounting to ₹9,24,409/- from foreign investor Zuo Xinming, China under automatic route. Further, the company did not allot the shares and with Reserve Bank's permission refunded the entire amount of ₹9,24,409/- but with delay of 549 days beyond the stipulated 180 days from the date of receipt of inflows in contravention of provisions stipulated in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.



3. Contravention under Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table - A)

Sr. No.	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	10-11-2016	9,24,409	21-04-2018	497

* The date for calculation of delay under 9(1) (A) taken as date of inflow reporting by Company to AD.

4. As indicated in the Table A above, the applicant reported the receipt of one foreign inward remittance, amounting to **₹9,24,409/-** to the Ahmedabad Regional Office of the Reserve Bank of India with a delay of 497 days approximately beyond the prescribed period of 30 days. Whereas, in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration. Thus, the company stands to contravene the provisions stipulated in paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. Contravention under Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table - B)

Sr. No.	Date of receipt	Amount of Refund (₹)	Date of Refund	Days delay excluding prescribed time of 180 days
1	10-11-2016	9,24,409	09-11-2018	549

6. It is observed that the Company has refunded the entire share application money of **₹9,24,409/-** involving a delay of approximately 549 days beyond the prescribed period of 180 days as stipulated in Paragraph 8 of Schedule 1 to Notification No. FEMA



20/2000- RB dated May 3, 2000 with the approval of the Reserve Bank of India.

Whereas, in terms of Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit 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. By not issuing shares / refunding money within 180 days the company has contravened the provisions stipulated in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1590/06.04.15/CEFA/2018-19 dated April 30, 2019 for further submission in person and /or producing documents, if any, in support of the application. Applicant vide their letter dated May 02, 2019 has requested to dispose of their application as per documents submitted and sought an exemption from personal hearing with Compounding Authority. Applicant has admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was a technical error beyond the control of the company and they requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding Authority in connection with their compounding application.

8. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant.

9. It has been declared in the compounding application dated January 04, 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 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 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.

10. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

A) Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards subscription of shares as detailed in paragraph 4 above. The amount of contravention involved is ₹9,24,409/- and the delay is 497 days approximately.

B) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in refund of share application money beyond stipulated period of 180 days from date of receipt detailed in Paragraph 6 above. The amount involved is ₹9,24,409/- and the delay is 549 days approximately.

11. 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 contraventions are to be compounded and therefore, I consider that amount of penalty of ₹61,273/- (Rupees Sixty One Thousand Two Hundred Seventy Three only) will meet the ends of justice.



12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹61,273/- (Rupees Sixty One Thousand Two Hundred Seventy Three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad –380 014 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 13th day of May, 2019.

Sd/-

(Ashish Gogia)

Assistant General Manager