



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Nimmi R Kaul
General Manager

Date: August 27, 2019
CA No 4899 / 2019

In the matter of

Ashmore Investment Management India LLP
507A, Kakad Chambers,
Dr. Annie Besant Road, Worli
Mumbai 400 018

(Applicant)

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

Order

The applicant has filed the application dated March 5, 2019 (received in the Reserve Bank on March 5, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for delay in reporting the receipt of remittance for consideration received towards capital contribution, beyond the stipulated time period of 30 days, in contravention of Regulation 5(9) read with para 7(i) and para 6(i) of Schedule 9 of 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 as amended from time to time (hereinafter referred to as FEMA 20/2000-RB), Regulation 13.1(7) 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 07, 2017) (hereinafter referred to as FEMA 20(R)/2017-RB) and A.P. (DIR Series) Circular No.123 dated April 16, 2014.

2. The relevant facts are as under: The applicant is a Limited Liability Partnership (LLP) (LLPIN – AAH-6556), incorporated on October 21, 2016, between Ashmore Investments (India) Limited (entity incorporated in Mauritius), Ashmore Investment Management India LLP, Mr. Ashwini Agarwal and Ms Rashi Bhatia Srinivasan as partner.

The Applicant received foreign inward remittance as capital contribution from Ashmore Investments (India) Limited, Mauritius. The date of receipt and reporting details are as tabulated below:

Amount received (Rs.)	Date of receipt	Date of reporting to RBI
51,00,000/-	19.01.2017	12.04.2018

The applicant had received the remittance on January 19, 2017 and filed the Advance Remittance Form (ARF) on the ebiz portal on February 14, 2017 as per instructions from their Authorised Dealer (AD). In terms of the A.P. (DIR Series) Circular No. 123 dated April 16, 2014 filing of Form LLP (I) by the LLP was required to be done to RBI through the AD (there was no provision of filing LLP(I) on ebiz portal). On June 16, 2017 the ARF form submitted on ebiz portal was rejected by the AD and the applicant was advised to resubmit. The applicant thereafter approached the AD on April 09, 2018 and the requisite filings were done to RBI through the AD. Based on the submissions by the applicant and the AD it is observed that the AD did not guide the applicant appropriately. Accordingly, the period from June 17, 2017 to April 11, 2018 has been considered as the period of contravention and the period upto June 16, 2017 has been ignored as period of contravention. Delay in reporting of receipt of capital contribution by an LLP in Form LLP (I) beyond 30 days was in



contravention of Regulation 5(9) read with para 7(i) and para 6(i) of Schedule 9 of FEMA 20/2000-RB, Regulation 13.1(7) of FEMA 20(R)/2017-RB and AP (DIR Series) Circular No.123 dated April 16, 2014. Administrative action of submission of Form Foreign Direct Investment – LLP(I) with RBI has since been complied with.

3. Regulation 5(9) of FEMA 20/2000-RB states that, “A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India, (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition/ transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.”

Further, in terms of Paragraph 7(i) and Paragraph 6(i) of Schedule 9 of the abovementioned regulations, Regulation 13.1(7) of FEMA 20(R)/2017-RB and AP (DIR Series) Circular No.123 dated April 16, 2014 an LLP receiving amount of consideration for capital contribution shall submit Form LLP (I) to the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the LLP is situated, within 30 days from the date of receipt of the amount of consideration.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/5723/15.20.67/2018-19 dated March 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on April 9, 2019 during which Shri Ashwini Agarwal and Smt. Anila Goyal, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated March 5, 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 furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. Accordingly, the above contravention which is 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 application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 5(9) read with para 7(i) and para 6(i) of Schedule 9 of FEMA 20/2000-RB, Regulation 13.1(7) of FEMA 20 (R)/2017-RB and AP (DIR Series) Circular No.123 dated April 16, 2014. The amount of contravention is Rs. 51,00,000/- and the period of contravention is approximately 10 months.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. **15,833/- (Rupees fifteen thousand eight hundred and thirty three only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(9) read with para 7(i) and



para 6(i) of Schedule 9 of FEMA 20/2000-RB, Regulation 13.1(7) of FEMA 20 (R)/2017-RB and AP (DIR Series) Circular No.123 dated April 16, 2014 on payment of a sum of **15,833/- (Rupees fifteen thousand eight hundred and thirty three only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 27th August, 2019

Sd/-
(Nimmi R Kaul)
General Manager