



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri. K S Praveen
Assistant General Manager

Date: May 13, 2019
C.A. BGL 396/2019

In the matter of

M/s Billionbrains Garage Ventures Private Limited
1A 206 Caldra, Sarjapur Road, Kaikondaha
Bengaluru 560035
(Applicant)

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

ORDER

The applicant has filed a compounding application dated March 08, 2019, received at this office of Reserve Bank of India, Bengaluru, on March 14, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in refund of excess share application money to the foreign investor/persons resident outside India, beyond the stipulated period of 75 days from the date of receipt of the inward remittance in terms of Paragraph 2 of Schedule I 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 07, 2017, and 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, M/s Billionbrains Garage Ventures Private Limited, was incorporated on January 17, 2018, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Ministry of Corporate Affairs, Government of India. The company is engaged in the business of providing software and IT enabled services.

3. The company had received an inward remittance of **₹14,803.00**, on February 02, 2018, from the non-resident investor, M/s Groww INC, USA, and allotted 9999 equity shares worth **₹9,999.00**. The excess share application money of **₹4,804.00**, was refunded to the non-resident investor on December 14, 2018, with a delay beyond the stipulated period of 75 days. Whereas, in terms of Paragraph 2(3) of Schedule 1 to Notification No. FEMA 20 (R)/2017-RB dated November 07, 2017, if the capital instruments are not issued within sixty days from the date of receipt of the consideration, the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR(B) accounts, as the case may be within fifteen days from the date of completion of sixty days.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4272 /22.11.042/2018-19 dated April 04, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representative, Mr. Nanjundaiah R, Company Secretary, who appeared for the personal hearing on April 11, 2019, admitted the contravention as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The representative of the applicant requested that, as the contravention was not intentional or with a malafide intention and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 during personal hearing and thereafter.



5. I have given my 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 the following FEMA provision issued in terms of:

(a) Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 75 days from the date of receipt of amount of consideration, as detailed in paragraph 3 above. The contravention relates to an amount of **₹4,804.00**, and the period of contravention is seven months and twenty six days.

6. It has been declared in the compounding application dated March 08, 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 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.

7. 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

