



In the

RESERVE BANK OF INDIA

Foreign Exchange Department

6, Sansad Marg

New Delhi-110001

Present

V.G. Sekar

Chief General Manager

Date: October 18, 2019

CA No. NDL 472/2019

In the matter of

Hotel Queen Road Private Limited

19, Ashoka Road, New Delhi-110001

(Applicant)

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 has filed the compounding application dated May 31, 2019 (received at Reserve Bank of India, New Delhi on June 06, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of delay in filing the Annual Return on Foreign Liabilities and Assets (FLAR)/ Part B of form FC-GPR, in terms of paragraph 9(2) 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 May 3, 2000 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company, incorporated on August 23, 2001, is engaged in the business of hospitality.

(b) The applicant had delayed in filing the FLAR/ Part B of form FC-GPR for the financial years 2006-2007 to 2016-2017 to the Reserve Bank with delay ranging from 1 year, 10 months and 12 days to 12 years, 2 months and 19 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Financial Year	Due Date	Date of Reporting
1	2006-2007	30.06.2007*	18.09.2019
2	2007-2008	31.07.2008#	18.09.2019
3	2008-2009	31.07.2009#	18.09.2019
4	2009-2010	31.07.2010#	18.09.2019
5	2010-2011	15.07.2011	27.05.2019
6	2011-2012	15.07.2012	27.05.2019
7	2012-2013	15.07.2013	27.05.2019
8	2013-2014	15.07.2014	27.05.2019
9	2014-2015	15.07.2015	27.05.2019
10	2015-2016	15.07.2016	27.05.2019
11	2016-2017	15.07.2017	27.05.2019

*As per A.P. (DIR Series) Circular No. 40 dated April 20, 2007

#As per A.P. (DIR Series) Circular No. 44 dated May 30, 2008

Whereas in terms of paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets', as specified by the Reserve Bank from time to time. Part B of form FC-GPR was replaced by FLAR vide A.P. (DIR Series) Circular No. 45 dated March 15, 2011.

(c) Thus, there are contraventions of paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB, as then applicable.



3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Ms. Dolly Jha, Company Secretary and Ms. Sulekha Kaul and Mr. Aditya Khandelwal, both Consultants, appeared for personal hearing on October 18, 2019 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that the contraventions were without any *malafide* or wilful intention but were mainly due to change in management and lack of awareness about reporting requirements under FEMA. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provision of paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB, on account of delay in filing the FLAR/ Part B of form FC-GPR for the financial years 2006-2007 to 2016-2017, as detailed in paragraph 2(b) above.

5. It has been declared in the compounding application dated May 31, 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 dated July 25, 2019, furnished as a part of 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. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the 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.



6. In terms of Section 13 of 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 compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹1,10,000/- (Rupees One Lakh and Ten Thousand only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹1,10,000/- (Rupees One Lakh and Ten Thousand only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New 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 3, 2000 shall apply.

The application is disposed accordingly.

Dated this the 18th day of October 2019.

Sd/-
(V.G. Sekar)
Chief General Manager