



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department

6, Sansad Marg

New Delhi - 110001

Present

**Eugene E Karthak**

**Regional Director for Delhi and CGM, New Delhi**

Date: December 6, 2018

C.A.NDL 296/2018

In the matter of

**Onsite India Private Limited**

**306, Mansarover Building, 90 Nehru Place, New Delhi 110019**

**(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 July 24, 2018 (received at Reserve Bank of India, New Delhi on July 26, 2018) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, and (ii) delay in filing Form FC-GPR after issue of shares, in terms of Paragraphs 9(1)(A) and 9(1)(B) 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, as amended from time to time (hereinafter referred to as FEMA 20/2000- RB).

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

(a) The applicant company was incorporated on August 20, 2007 and is engaged in



the operation and maintenance of sewer systems.

(b) The applicant had received foreign inward remittance of ₹7,96,74,832.12 from its parent company, South Staffordshire PLC, UK, on May 29, 2014 for issue of equity shares and reported it on January 31, 2018 with a delay of 3 years, 7 months and 3 days beyond the prescribed period in contravention of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable. Whereas, in terms of Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration.

(c) The company allotted 79674832 equity shares against this remittance on July 25, 2014 and reported it on December 5, 2017 with a delay of 3 years, 3 months and 11 days beyond the prescribed period in contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable. Whereas, in terms of Paragraph 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 Reserve Bank a report in Form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to a person resident outside India.

(d) Thus, there are contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA Notification No. 20 /2000-RB dated May 3, 2000, 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. Shri Sanjay Jha, Accounts Manager and Ms. Sheetal Gupta, Company Secretary appeared for personal hearing on December 5, 2018 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the company for which compounding has been sought. During the personal hearing, they submitted that delays were without any *malafide* or wilful intention but were mainly due to delay in arranging KYC of the foreign investor and 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 following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, due to delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹7,96,74,832/- (Rupees Seven Crore Ninety Six Lakh Seventy Four Thousand Eight Hundred Thirty Two only) and the period of delay is 3 years, 7 months and 3 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, due to delay in filing of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹7,96,74,832/- (Rupees Seven Crore Ninety Six Lakh Seventy Four Thousand Eight Hundred Thirty Two only) and the period of delay is 3 years, 3 months and 11 days.

5. It has been declared in the compounding application dated July 24, 2018 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 undertaking dated August 13, 2018 furnished by the company 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.

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. 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 I consider that an amount of **₹5,55,000/- (Rupees Five Lakh Fifty Five Thousand only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of paragraph 9(1)(A) and 9(1)(B) 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 **₹5,55,000/- (Rupees Five Lakh Fifty Five 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 6<sup>th</sup> day of December 2018.

Sd/-

**(Eugene E. Karthak)**  
**Regional Director for Delhi and CGM, New Delhi**