



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad – 380014

Present
Santosh Kumar Panigrahy
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)

November 12, 2019
CEFA.CO.ID.12002 / C.A. No. AHM - 138 / 2018-19

Matter
CAPITAWORLD GLOBAL PRIVATE LIMITED
(CIN: U74999GJ2016PTC094583)

302, Shivalik 10, Opp. SBI Zonal Office, S M Road, Ambawadi, Ahmedabad - 380015

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 thereunder, I pass the following order:



Order

CAPITAWORLD GLOBAL PRIVATE LIMITED (hereinafter referred to as applicant) has filed the application dated September 3, 2019, complete in all respects, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the Regulations issued thereunder. The contraventions sought to be compounded are (i) delay beyond 30 days in submitting report in Advance Reporting Form (ARF) to the Reserve Bank, through Authorised Dealer bank (AD bank) after receipt of foreign inward remittances towards subscription to equity as required under Paragraph 9(1)(A) 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 then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB); (ii) delay beyond 30 days in submitting report in Form-Foreign Currency-Gross Provisional Return (FC-GPR) to the Reserve Bank, through AD bank, after the date of issue of shares to “persons resident outside India” as required under Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB; and (iii) delay in refund of share application money beyond the prescribed period of 180 days, as required under Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB. The applicant has therefore contravened the provisions of Paragraphs 9(1)(A), 9(1)(B) and Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB. The said Regulations have been issued by the Reserve Bank of India in exercise of its powers under the provisions of the FEMA, 1999.

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

(i) The applicant was incorporated on December 6, 2016 under the provisions of the Companies Act, 2013 (CIN: U74999GJ2016PTC094583). The applicant has received three foreign inward remittances amounting to **₹1,96,29,780/-** under the automatic route from two investors resident outside India viz., (i) Shri Bellur Subbanna Laxminarayan, UAE; and (ii) Shri Ashish Shukla Ranchhod, Hong Kong. The applicant has issued 784 Compulsorily Convertible Preference shares (CCPS) amounting to **₹1,96,00,000/-** to the



said investors. The applicant refunded excess share application money amounting to ₹29,779/- and the remaining amount of ₹1/-, being insignificant, was ignored.

(ii) The receipt of the foreign inward remittances from the “persons resident outside India” was reported by the applicant by filing ARF as provided below:

(Table 1)

Reporting under Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB: Contravention detected in one transaction					
Sl. No.	Name of the remitter	Amount of foreign inward remittance (₹)	Date of receipt	Date of reporting by company to RBI*	Delay beyond prescribed period of 30 days
1	Bellur Subbanna Laxminarayan, UAE	95,19,876	19-09-2017	24-10-2017	5
2	Ashish Shukla Ranchhod, Hong Kong	50,09,903	23-10-2017	20-11-2017	No delay
Reporting under Regulation 13.1(1) of Notification No. FEMA 20 (R)/2017-RB dated November 7, 2017: Contravention not detected					
3	Ashish Shukla Ranchhod, Hong Kong	51,00,001	02-05-2018	09-05-2018	No Delay
	Total	1,96,29,780			

* For the purpose of calculation of delay under Paragraph 9(1)(A) and Regulation 13.1(1), date of reporting by the applicant to AD bank is taken as date of reporting to RBI.

(a) As indicated in the Table 1 above, the applicant reported the receipt of three foreign inward remittances amounting to ₹1,96,29,780/- to the Ahmedabad Regional Office of the Reserve Bank of India. Out of the above, one foreign inward remittance (Sl. No. 1) amounting to ₹95,19,876/- was reported with a delay of 5 days beyond the prescribed period of 30 days from the date of receipt of foreign inward remittance.

(b) In terms of Regulation 5(1) of the Notification No. FEMA 20/2000-RB, a “person resident outside India” (other than a citizen of Bangladesh or Pakistan) or an entity incorporated outside India (other than an entity of Bangladesh or Pakistan) may purchase shares or convertible debentures or warrants of an Indian company



under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule I to the said Regulations. Paragraph 9(1)(A) of Schedule 1 to the Regulations mandates that an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, report in ARF as specified by Reserve Bank from time to time, along with documents stipulated therein.

(c) The applicant has thus failed to submit the report in ARF within the time frame as required under Paragraph 9(1)(A) of Schedule 1 read with Notification No. FEMA 20/2000-RB, thereby contravening the provisions of the said Notification.

(iii) The applicant allotted CCPS to “persons resident outside India” and reported the same by filling Form FC-GPR as provided below:

(Table 2)

Reporting under Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000: Contravention detected						
Sl. No.	Name of the investor	No. of CCPS issued	Amount of CCPS (₹)	Date of issue of CCPS	Date of reporting to RBI*	Delay beyond prescribed period of 30 days
1	Bellur Subbanna Laxminarayan, UAE	380	95,00,000	19-09-2017	25-05-2018	218
2	Ashish Shukla Ranchhod, Hong Kong	200	50,00,000	31-10-2017	10-08-2018	253
Reporting under Regulation 13.1(2) to Notification No. FEMA 20(R)/2017-RB dated November 7, 2017: Contravention detected – Late Submission Fees (LSF) Paid						
3	Ashish Shukla Ranchhod, Hong Kong	204	51,00,000	05-05-2018	10-09-2018	98 (LSF Paid)
Total		784	1,96,00,000			

* For the purpose of calculation of delay under Paragraph 9(1) (B) and Regulation 13.1(2), date of reporting by the applicant to AD Bank is taken as date of reporting to RBI.



- (a) As indicated in the Table 2 above, the applicant reported three numbers of Form FC-GPR for issue of 784 CCPS amounting to **₹1,96,00,000/-** to the Ahmedabad Regional Office of the Reserve Bank of India. Out of the above, two numbers of Form FC-GPR (Sl. No. 1 and 2) amounting to **₹1,45,00,000/-** were reported with a delay ranging from 218 to 253 days which was beyond the prescribed period of 30 days from the date of issue of CCPS. Further, the applicant has reported the third Form FC-GPR (Sl. No. 3) and issued the CCPS for the consideration amount of **₹51,00,000/-** with a delay of 98 days. However, the contravention under Regulation 13.1(2) of Notification No. FEMA 20 (R)/2017-RB dated November 7, 2017 was regularised, as the applicant had paid the Late Submission Fee (LSF).
- (b) Paragraph 9(1)(B) of Schedule 1 to the Notification No. FEMA 20/2000-RB mandates that an Indian company issuing shares in accordance with these Regulations is required to submit to the Reserve Bank of India through AD bank, a report in Form FC-GPR, as specified by the Reserve Bank from time to time, along with documents stipulated therein, within 30 days from the date of issue of shares to the “person resident outside India”.
- (c) The applicant has thus failed to submit the report in Form FC-GPR within the time frame as required under Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, thereby contravening the provisions of the Regulations issued vide said Notification.
- (iv) Further, the applicant has refunded the share application money beyond the prescribed period under the provisions of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB as provided below:



(Table 3)

Delay in refund of share application money: Contravention detected					
Sl. No.	Name of the investor	Amount Refunded (₹)	Date of receipt of remittance	Date of Refund	Delay beyond prescribed period of 180 days
1	Bellur Subbanna Laxminarayan, UAE	19,876	19-09-2017	24-05-2018	67
2	Ashish Shukla Ranchhod, Hong Kong	9,760	23-10-2017	07-06-2018	47
		143	23-10-2017	11-06-2018	51
	Total	29,779			

(a) As indicated in Table 3 above, the excess share application money of ₹19,876/- was refunded to Shri Bellur Subbanna Laxminarayan, UAE with a delay of 67 days and ₹9,903/- was refunded to Shri Ashish Shukla Ranchhod, Hong Kong in two tranches of ₹9,760/- with a delay of 47 days and ₹143/- with a delay of 51 days.

(b) In terms of second proviso to Paragraph 8 of Schedule 1, the applicant ought to have approached the RBI for permission to refund the excess share application money and was required to take prior permission of RBI to refund the money which was outstanding beyond 180 days. The applicant failed to take such permission from the Reserve Bank. In terms of Paragraph 5 of AP (Dir series) Circular No.20 dated December 14, 2007, in all cases where, as on November 28, 2007, 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through their AD Category-1 bank with a definite action plan whether for allotment of equity instruments or for refund of the advance, with full details, for specific approval.

(c) The applicant has thus failed to refund the share application money to Shri Bellur Subbanna Laxminarayan, UAE and Shri Ashish Shukla Ranchhod, Hong Kong within the prescribed period of 180 days and also failed to obtain prior permission of RBI to refund the excess amount which was outstanding beyond 180 days, thereby contravening the provisions of Regulations as required under Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB.



3. The applicant was given an opportunity for personal hearing vide letter FE.AH.No.412/06.04.15/CEFA/2019-20 dated October 9, 2019 for further submission in person and/or producing documents, if any, in support of the application. Shri Ram Odedara, Financial Consultant and Shri Rajesh Parikh, a practising Company Secretary represented the applicant for the personal hearing held on October 22, 2019 at 4th Floor, Main Office Building, Reserve Bank of India, Ahmedabad. The representatives of the applicant admitted to the contravention for which compounding has been sought and stated that the non-compliance was not intentional but was an inadvertent error on the part of the applicant. They expressed deep regret for the delay caused and stated on behalf of the applicant that they were willing to accept any direction/ order of the Compounding Authority in connection with their compounding application. The representatives requested that a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the statements made in the application, documents and submissions made in this context by the applicant/representatives.

4. It has been declared in the compounding application 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 that the applicant was not under any enquiry / investigation / adjudication by any investigating 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.

5. I have given my careful consideration to the documents on record and submissions made by the applicant in its application. I am satisfied and hold that the applicant has contravened the statutory requirement in terms of:



- (i) Paragraph 9(1)(A) of Schedule 1 to FEMA Notification FEMA 20/2000–RB dated May 3, 2000, due to delay in submitting report in ARF, after receipt of foreign inward remittance towards subscription of CCPS as detailed in paragraph 2(ii) above. The amount of contravention involved is ₹95,19,876/- and the delay in submission is 5 days.
- (ii) Paragraph 9(1)(B) of Schedule 1 to FEMA Notification FEMA 20/2000–RB dated May 3, 2000, due to delay in submitting report in Form FC-GPR, after issue of CCPS to “persons resident outside India” as detailed in paragraph 2(iii) above. The amount of contravention involved is ₹1,45,00,000/- and the delay in submission ranges from 218 to 253 days.
- (iii) First and second proviso to Paragraph 8 of Schedule 1 to FEMA Notification FEMA 20/2000–RB dated May 3, 2000, due to delay in refund of share application money as detailed in paragraph 2(iv) above and for making payment of the amount which was outstanding beyond 180 days without taking permission from RBI as required under second proviso to Paragraph 8 of Schedule 1 of the said Notification. The amount of contravention involved is ₹29,779/- and the delay in refund ranges from 47 to 67 days.

6. In terms of Section 13 of the FEMA, any person contravening any provision of the Act, rules, regulations, notifications etc. shall be liable to pay 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 ₹31,666/- (Rupees Thirty One Thousand Six Hundred Sixty Six only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely contravention of Paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 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 ₹31,666/- (Rupees Thirty One Thousand Six Hundred Sixty Six only). The same 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 - 380014 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 12th day of November, 2019.

Sd/-

(Santosh Kumar Panigrahy)

Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /

Chief General Manager (Ahmedabad)