



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

R Karthikeyan
Assistant General Manager

Date: December 06, 2019
C.A.955/2019

In the matter of

M/s. FreeElective Network Pvt Ltd.
2, Thomas Nagar, 2nd floor
Little Mount, Saidapet
Chennai – 600 015

(Applicant)

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

Order

The applicant has filed a compounding application dated August 06, 2019 (received at Reserve Bank on August 26, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in submission of Form FC-GPR to Reserve Bank on allotment of shares (ii) delay in receipt of consideration in terms of Paragraph 9(1)B and Paragraph 8 respectively, of Schedule I 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) and (iii) delay in refund of receipt of consideration in terms of Paragraph 2(3) 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 company was incorporated on March 09, 2010 under the provisions of the Companies Act, 1956 (Registration No. U74900TN2010FTC074851) and is engaged in business of operation of other websites that act as portals to the Internet, such as media sites providing periodically updated content. The applicant received three foreign inward remittances amounting to ₹82,07,340.00 from M/s. FreeElective LLC, USA towards subscription to capital instruments.

3. The applicant company allotted capital instruments and filed Forms FC-GPR as detailed in the table below:

Sl. No	No. of shares allotted	Share Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	49900	10.00	4,99,000.00	09.03.2010	09.01.2019
2	354750	10.00	35,47,500.00	05.12.2018	26.02.2019
3	414900	10.00	41,49,000.00	05.06.2019	06.08.2019

The applicant allotted 49900 Memorandum of Association (MoA) shares on the date as indicated at Sl.No.1 above and filed the Form FCGPR with a delay of eight years nine months one day approximately beyond the stipulated time of 30 days. Whereas in terms of paragraph 9(1)B of Schedule I to Notification No. 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 person resident outside India.



4. The company allotted 49900 MoA shares on 09.03.2010. The consideration towards the said allotment was received by way of inward remittance as detailed in the table:

Sl. No.	Date of receipt	Amount of Inward Remittance in ₹	Date of allotment
1	28.11.2018	4,99,000.00	09.03.2010

The company received the consideration towards allotment of MoA shares with a delay of eight years eight months 19 days approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, a company issuing the shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by way of inward remittance through normal banking channels or by debit to NRE/FCNR account of the person concerned maintained with an authorized dealer/authorized bank.

5. The company received ₹5,10,840.00 on 28.11.2018 and utilized an amount of ₹4,99,000.00 towards allotment of MoA shares and refunded the balance amount of ₹11,840.00 as detailed below:

Sl. No.	Date of receipt	Amount (₹)	Date of refund
1	28.11.2018	11,840.00	26.06.2019

The balance consideration was refunded back to the investor on 26.06.2019 with a delay of four months 15 days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, if capital instruments are not issued within 60 days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance within 15 days from the date of completion of 60 days.

6. The applicant was advised about the contraventions vide memorandum dated April 02, 2019. The applicant has filed compounding application dated August 06, 2019 wherein it has been declared 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 undated 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/him/her thereafter. 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.

7. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated December 04, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on December 06, 2019 during which Shri Subramani Anil Kumar, Director of the company, represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in paragraphs 3 to 5 above for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested Reserve Bank to take a lenient view in the matter. 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 the personal hearing.

8. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) Paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of ₹4,99,000.00 with the duration of contravention being eight years nine months one day approximately;
- (b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in receipt of consideration, as detailed in paragraph 4 above. The contravention



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relates to an amount of ₹4,99,000.00 with the duration of contravention being eight years eight months 19 days approximately; and

(c) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of excess consideration, as detailed in paragraph 5 above. The contravention relates to an amount of ₹11,840.00 with the duration of contravention being four months 15 days approximately.

9. 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 **₹53,011/-** (Rupees fifty three thousand and eleven only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)B and 8 of Schedule I to Notification No. FEMA 20/2000-RB, and paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹53,011/-** (Rupees fifty three thousand and eleven only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 sixth day of December, 2019.

sd/-

R Karthikeyan

Assistant General Manager



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