



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Ajay Kumar Misra
Chief General Manager

Date: February 28, 2019
CA No 4843 / 2018

In the matter of

Indgrowth Capital Advisors LLP
C302, Lakshchandi Heights, Gokuldham
Goregaon East, Mumbai - 400063

(Applicant)

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

Order

The applicant has filed the application dated December 19, 2018 (received in the Reserve Bank on the same day), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for delay in reporting the receipt of remittances in Form Foreign Direct Investment – LLP(I), beyond the stipulated time period of 30 days, in contravention of Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case), para 6(i) (applicable from 03.03.2017 to 06.11.2017 in this case) of Schedule 9 of 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 Notification No. FEMA 20/2000-RB), and Regulation 13(7) of Notification No. FEMA 20(R)/2017-RB dated November 7, 2017 as amended from time to time (applicable from 07.11.2017 till 14.12.2018 in this case, and hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts as provided in the application are, as under: The applicant is a Limited Liability Partnership (LLP) (LLPIN - AAG-2784), incorporated under the Limited Liability Partnership Act, 2008, on May 03, 2016. The partnership was initially between Shri Rajesh Singhal, an Indian resident and Smt. Ritu Agarwal Singhal, an Indian resident. With effect from November 01, 2016, Shri Varun Kapur, an Indian citizen residing in Singapore, Shri Aayam Banerjee, an Indian resident and Shri Saurabh Khandelwal, an Indian resident were inducted into the partnership. The applicant is engaged in the business of acting as advisors, industrial consultants etc. in connection with the management, manufacture etc. of engineering goods and any other allied products required by trade and industry.

The applicant has received foreign inward remittances from Shri Varun Kapur, an Indian citizen residing in Singapore, as follows:

S.No.	Amount received (Rs.)	Date of receipt	Reporting to RBI
1	8,00,000	05.12.2016	20.04.2018
2	28,00,763.80	16.03.2017	20.04.2018
3	84,75,000	30.08.2017	20.04.2018
4	84,75,000	07.03.2018	20.04.2018
5	84,75,000	23.07.2018	28.08.2018
6	84,75,000	30.11.2018	14.12.2018

The applicant delayed the reporting of receipt of FDI in Form I (for S.Nos. 1-5 above), beyond the stipulated time period, in contravention of paragraph 7(i) of Schedule 9 (till 02.03.2017), paragraph 6(i) of Schedule 9 of Notification No.



FEMA 20/2000 –RB (from 03.03.2017 till 06.11.2017) and Regulation 13(7) of Notification No. FEMA 20 (R)/2017 –RB (from 07.11.2017 till 14.12.2018).

3. Regulation 5(9) of Notification No. FEMA 20/2000-RB states that, “A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India, (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition/ transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.”

Further, Paragraph 7(i) of Schedule 9 of the abovementioned regulations specifies a time period of 30 days from the date of receipt of the amount of consideration, within which the LLP shall submit a report in Form Foreign Direct Investment – LLP(I) to the Reserve Bank of India.

Regulation 6(i) of Schedule 9 of Notification No. FEMA 20/2000-RB provides the reporting requirements with regard to receipt of foreign remittances in LLPs. Regulation 13(7) of Notification No. FEMA 20(R)/2017 –RB further states that, “A Limited Liability Partnerships (LLP) receiving amount of consideration for capital contribution and acquisition of profit shares shall submit Form LLP (I) to the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the Limited Liability Partnership is situated, within 30 days from the date of receipt of the amount of consideration”.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/4896/15.20.67/2018-19 dated February 15, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 21, 2019 during which Shri Rajesh Singhal, Managing Partner of the applicant LLP and Shri Aditya Agarwal, represented the applicant. The representatives of the applicant



submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated December 19, 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 furnished along 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 been 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.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case), para 6(i) (applicable from 03.03.2017 to 06.11.2017 in this case) of Schedule 9 of Notification No. FEMA 20/2000-RB, and Regulation 13(7) of Notification No. FEMA 20(R)/2017-RB. The amount of contravention is Rs. 3,75,00,763.80/- and the period of contravention ranges from 5 days to 15 months 25 days approximately.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of



Rs. 19,292/- (Rupees nineteen thousand two hundred and ninety two only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case), para 6(i) (applicable from 03.03.2017 to 06.11.2017 in this case) of Schedule 9 of Notification No. FEMA 20/2000-RB, and Regulation 13(7) of Notification No. FEMA 20(R)/2017-RB, on payment of a sum of Rs. 19,292/- (Rupees nineteen thousand two hundred and ninety two only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 twenty eighth day of February, 2019

Sd/-

(Ajay Kumar Misra)
Chief General Manager