



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

Present

V R Venkatesh
General Manager

Date: February 06, 2020
C.A. 962/2019

In the matter of

M/s. Realway Asia Pvt Ltd.
New No.15, Old No.7A, Murray's Gate Road
Alwarpet
Chennai - 600 018

(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 07, 2019 (received at Reserve Bank on October 25, 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 reporting of inflow of funds to Reserve Bank received from a person resident outside India for allotment of shares (ii) delay in submission to Reserve Bank of Form FC-GPR on



allotment of shares (iii) delay in receipt of consideration and (iv) delay in refund of consideration in terms of Paragraph 9(1)A, 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 and as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on June 27, 2016 under the provisions of the Companies Act, 2013 (Registration No. U74999TN2016PTC122331) and is engaged in the activities of other commission agents n.e.c (including commission agents working in emerging areas for wholesale trade). The applicant received foreign inward remittances from (i) Chen Jian, Hong Kong and (ii) Sun Yu Nan, Hong Kong towards subscription to capital instruments including MoA shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in ₹	Date of receipt	Date of Reporting to RBI
1	9,31,901.75	08.11.2016	02.12.2017
2	54,205.27	10.11.2016	05.12.2017
3	1,91,850.00	20.05.2017	25.11.2017
4	35,81,200.00	20.05.2017	02.12.2017
5	19,092.00	03.11.2017	14.02.2018
6	12,752.00	06.11.2017	14.12.2017
7	1,90,323.60	06.11.2017	18.01.2018

The applicant reported receipt of remittances to the Reserve Bank as indicated above with delay ranging from eight days to 11 months 25 days approximately beyond the prescribed period of 30 days. Whereas, in terms of paragraph 9(1)A of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

3. The company allotted capital instruments and filed the FC-GPRs as indicated below:



Sl. No	No. of shares allotted	Face Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	99000	10.00	9,90,000.00	27.06.2016	24.07.2018
2	396000	10.00	39,60,000.00	10.10.2017	24.07.2018

The applicant filed form FC-GPRs as indicated above with delay ranging from eight months 15 days to one year 11 months 28 days approximately beyond the prescribed period 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 capital instruments on June 27, 2016 and October 10, 2017. The consideration towards the above allotment was received by way of inward remittances as detailed below:

Sl. No.	Date of receipt	Amount of Inward Remittance in ₹	Date of allotment
1	08.11.2016	9,31,901.75	27.06.2016
2	03.11.2017	8098.25	27.06.2016
3	10.11.2016	50,000.00	27.06.2016
4	06.11.2017	1,78,800.00	10.10.2017
5	06.11.2017	8150.00	10.10.2017

The company received consideration after allotment of capital instruments with delay ranging from 27 days to one year four months seven 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 refunded the excess considerations to the investors after allotment with prior permission of Reserve Bank as detailed below:



Sl. No.	Date of receipt	Amount (₹)	Date of refund
1	03.11.2017	10,993.75	03.01.2020
2	10.11.2016	4,205.27	03.01.2020
3	06.11.2017	11,523.60	03.01.2020
4	06.11.2017	4,602.00	03.01.2020

The company refunded the excess considerations with delay ranging from one year seven months 29 days to two years seven months 25 days approximately beyond the stipulated time of 180 days with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with A.P(DIR Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

6. The applicant was advised about the contraventions vide memorandum dated July 17, 2019. The applicant has filed a compounding application dated August 07, 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 declaration furnished with the 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 February 04, 2020 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant vide mail dated February 05, 2020 has informed of not appearing for the personal hearing scheduled on February 06, 2020. 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.

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) A of Schedule I to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances as detailed in paragraph 2 above. The contravention relates to an amount of ₹49,81,324.00 with duration of contravention ranging from eight days to 11 months 25 days approximately;
- (b)** 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 ₹49,50,000.00 with the duration of contravention ranging from eight months 15 days to one year 11 months 28 days approximately;
- (c)** 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 relates to an amount of ₹11,76,950.00 with the duration of contravention ranging from 27 days to one year four months seven days approximately; and
- (d)** Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with A.P(DIR Series) Circular No.20 dated December 14, 2007 due to delay in refund of excess consideration as detailed in paragraph 5 above. The contravention relates to an amount of ₹31,324.62 with the duration of contravention ranging from one year seven months 29 days to two years seven months 25 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



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that an amount of **₹67,302/-** (Rupees sixty seven thousand three hundred and two only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)A, 9(1)B and 8 of Schedule I to Notification No. FEMA 20/2000-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 **₹67,302/-** (Rupees sixty seven thousand three hundred and two 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 February, 2020.

Sd/-

V R Venkatesh
General Manager