



In the

**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Smt. K S Jyotsna**  
**General Manager**

Date: May 17, 2019  
**C.A. BGL 393/2019**

In the matter of

**M/s Special Smiles Private Limited**  
Krishna Arcade, 1<sup>st</sup> Floor, 363, Opp Pride Regalia  
Hulimavu Gate, Bannerghatta Road  
Bengaluru 560076  
**(Applicant)**

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

**ORDER**

The applicant has filed a compounding application dated March 01, 2019, received at this office of Reserve Bank of India, Bengaluru, on March 01, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA) and the regulations issued there under. The contravention sought to be compounded is allotment of shares to persons resident outside India, prior to receipt of inward remittances, in terms of Paragraph 2 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, M/s Special Smiles Private Limited, was incorporated on February 12, 2016, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of providing services related to evaluation, diagnosis, prevention and treatment of oral and dental diseases.

3. The company had allotted 2021 equity shares worth ₹97,04,999.64, to M/s S-Squared Capital Investments LLC, USA, on November 10, 2017. However, the amount of consideration of ₹97,05,000.00, pertaining to the aforesaid share allotment was received after allotment of shares, on November 13, 2017. Whereas, in terms of Paragraph 2 of Schedule 1 to Notification No. FEMA 20 (R)/2017- RB, dated November 07, 2017, issue of equity shares by an Indian company against any funds payable by it to the investor shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ Escrow account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016. Capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 5942 /22.09.993/2018-19, dated May 13, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Nitin C R, Business Head, Mr. Anup Vijay Kulkarni, Legal Counsel, and Mr. A S Nagarjun, Company Secretary , who appeared for the personal hearing on May 15, 2019, admitted the contravention as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that, as the contravention was not intentional or with a malafide intention and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 personal hearing and thereafter.

5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

(a) Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2000-RB, as the applicant allotted shares to the non-resident investor, prior to the receipt of amount of consideration as detailed in paragraph 3 above. The contravention relates to an amount of **₹97,04,999.64**, and the period of contravention is three days.

6. It has been declared in the compounding application dated March 01, 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 been declared in the undertaking dated February 26, 2019, furnished as part of 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 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 contravention which is being compounded in this order is 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. 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 contravention is to be compounded and I consider that an amount of **₹98,525.00 (Rupees Ninety Eight Thousand Five Hundred and Twenty Five only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2017-RB, by the applicant, based on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹98,525.00 (Rupees Ninety Eight Thousand Five Hundred and Twenty Five only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru, 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 this, the Seventeenth day of May 2019.

Sd/-

(K S Jyotsna)  
General Manager