



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Smt N Sara Rajendra Kumar
General Manager

Date: August 19, 2019
C.A. HYD 434

In the matter of

M/s Advantage Dental Laboratories Pvt Ltd
First Floor, Plot No. 34
Road No. 14, BN Reddy Colony
Banjara Hills, Hyderabad – 500 034

(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 compounding application dated June 3, 2019 received on June 20, 2019 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 in reporting receipt of foreign inward remittances and (ii) delay in refund of share application money to the foreign investor beyond 180 days from the date receipt of foreign inward remittance in terms of Paragraph 9(1)(A) and Paragraph 8 respectively of Schedule 1 to Foreign Exchange Management Regulations, 2000 notified vide Notification No.



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FEMA.20/2000-RB dated May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable.

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

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 12.01.2005 (U33112TG2005PTC045118). The company is engaged in manufacturing of artificial teeth and other dental laboratory service.
- b) The applicant had received foreign inward remittances from the foreign investors as indicated below:

SNo	Name of the Remitter	Amount (INR)	Date of Remittance	Date of Receipt
1	M/s Colgin Knuppel and Vadakattu LLC	8,68,253	16/08/2005	07/08/2008
2		28,45,350	08/09/2005	07/08/2008
3		17,66,004.42	11/11/2005	07/08/2008
4		1,50,000	22/11/2005	07/08/2008
5		14,72,000	09/03/2007	28/09/2007
6		3,41,806	11/05/2006	31/08/2018
	Total	74,43,413.42		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 74, 43,413.42 to the Regional Office of Reserve Bank of India and the same were reported with delays ranging from 5 months 20 days to 12 years 2 months 21 days approximately as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

- c) The company has refunded the share application money to the foreign investor as indicated below:



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S.No	Name of investor	Amount of remittance	Date of receipt	Date of refund
1	M/s Colgin Knuppel and Vadakattu LLC	8,68,253	16/08/2005	19/07/2019
2		28,45,350	08/09/2005	19/07/2019
3		17,66,004.42	11/11/2005	19/07/2019
4		1,50,000	22/11/2005	19/07/2019
5		14,72,000	09/03/2007	19/07/2019
6		3,41,806	11/05/2006	19/07/2019

The applicant did not allot shares for the share application money received, but refunded an amount of ₹ 74,43,413.42 on July 19, 2019 after obtaining approval of RBI, granted vide letter No. HY.FE.FID/180/14.07.946/2019-20 dated July 18, 2019. The applicant has refunded the share application money ₹ 74,43,413.42 beyond 180 days from the date of receipt, with delays ranging from 11 years 10 months 14 days to 13 years 5 months 7 days approximately .Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.



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3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/356/14.66.003/2019-20 dated August 7, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide their email dated August 9, 2019 stated that they are foregoing appearing for personal hearing and requested that the compounding application may be disposed of on the basis of merits in terms of the facts/submissions made therein along with the application and documents submitted. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to ₹ **74,43,413.42** and the delay ranges from 5 months 20 days to 12 years 2 months 21 days approximately.

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of share application money ₹ **74,43,413.42** and the delay ranges from 11 years 10 months 14 days to 13 years 5 months 7 days approximately.

5. It has been declared in the compounding application dated June 3, 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 declaration dated June 3, 2019 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 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



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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.

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. 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 ₹ 1,71,579/- (**Rupees One Lakh Seventy One Thousand Five Hundred and Seventy Nine Only**) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 8 respectively of Schedule 1 to 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 **1,71,579/- (Rupees One Lakh Seventy One Thousand Five Hundred and Seventy Nine Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 19th day of August 2019

Sd/-

(N Sara Rajendra Kumar)

General Manager