



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi - 110001

Present
Md. Shakir Hasan
Assistant General Manager

Date: November 22, 2019
CA No. NDL 485/2019

In the matter of
Momenta Learning Solutions Private Limited
Building No. 68, Phase III, Okhla Industrial Area, New Delhi - 110020
(Applicant)

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

ORDER

The applicant has filed the compounding application dated June 27, 2019 (received at Reserve Bank of India, New Delhi on June 28, 2019) and addendum dated September 4, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittances received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) issue of shares to person resident outside India prior to receipt of the amount of consideration, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 respectively of Schedule 1 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company, incorporated on September 23, 2016, is engaged in providing other business support service activities n.e.c.

(b) The applicant had received foreign inward remittance of ₹23,595.00 on October 10, 2017 from its foreign investor, Mr. Carl Thong Chia Lin, Singapore and reported the same on January 31, 2018 with a delay of 2 months and 22 days beyond the prescribed period in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

(c) The applicant had issued 2500 equity shares for a consideration of ₹25,000.00 on September 23, 2016 to its foreign investor, Mr. Carl Thong Chia Lin, Singapore and reported the same on September 29, 2018 with delay of 1 year, 11 months and 6 days beyond the prescribed period in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in Form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) The applicant had issued 2500 equity shares on September 23, 2016 to its foreign investor, Mr. Carl Thong Chia Lin, Singapore. The consideration for the said shares was received in two tranches with delay of 1 year & 17 days and 1 year, 8 months & 16 days, as detailed below, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, an Indian company accepting FDI has to receive the share application money from the non-resident investor prior to the allotment of shares, and



the shares have to be issued/ amount to be refunded, in case shares have not been issued, within 180 days from the date of receipt of inward remittance

Sl. No.	Date of issue	Amount (₹)	Date of receipt
1	23.09.2016	23,595.00	10.10.2017
2	23.09.2016	1,405.00	08.06.2018
	Total	25,000.00	

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Chandan Roy Choudhury, Managing Director, appeared for personal hearing on November 22, 2019 on behalf of the applicant. The representative admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, he submitted that the contraventions were without any *malafide* or wilful intention but were mainly due to non availability of the Director during the period of filing and lack of awareness about FEMA compliances. He requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in reporting foreign inward remittance received for issue of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹23,595.00 (Rupees Twenty Three Thousand Five Hundred and Ninety Five only) and the period of delay is 2 months and 22 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in filing Form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹25,000.00 (Rupees Twenty Five Thousand only) and the period of delay is 1 year, 11 months and 6 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of issue of shares to person resident outside India prior to receipt of inward remittance



as detailed in paragraph 2(d) above. The contraventions relate to an amount of ₹25,000.00 (Rupees Twenty Five Thousand only) and the periods of contravention are 1 year & 17 days and 1 year, 8 months & 16 days.

5. It has been declared in the compounding application dated June 27, 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 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. 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.

6. In terms of Section 13 of 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 compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹ 5,589/- (Rupees Five Thousand Five Hundred and Eighty Nine only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹ 5,589/- (Rupees Five Thousand Five Hundred and Eighty Nine only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi 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 22nd day of November 2019.

Sd/-
(Md. Shakir Hasan)
Assistant General Manager