



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Fort, Mumbai - 400 001

Present

Sharmila Thakur
General Manager
Date: December 09, 2019
C.A. 4999/2019

In the matter of

Aditya Infotech Ltd
A-11 & 12, Sector 4
Noida - 201301

(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 August 14, 2019 (received in the Reserve Bank of India on August 19, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded relate to non-submission of share certificate or refund of share application money within 6 months of making remittance towards overseas investment thereby contravening Regulation 15 (i) of Notification No. FEMA 120/2000-RB dated July 07, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

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

The applicant company was incorporated as Perfect Lucky Goldstar International Ltd on March 27, 1995 (CIN U65910DL1985PTC0202969) and its name was changed to Aditya



Infotech Ltd on September 11, 1997. The company is engaged in the sale and distribution of Security and Surveillance related equipment in India and abroad.

The applicant executed a Joint Venture agreement in December 2016 and remitted USD 70,251/- (INR 45,54,316/-) on February 28, 2017 towards 49% stake in the overseas JV viz. CP Plus (Thailand) Co Ltd. in Thailand. Later, in order to focus on domestic business in India, the applicant decided to withdraw from the Thai joint venture. The money remitted as ODI in the JV was refunded on February 27, 2018 i.e beyond the prescribed period of six months. This resulted in the contravention of Regulation 15(i) of Notification FEMA 120/2004-RB dated July 7, 2004.

3. The following are the observed contraventions:

Regulation 15(i) of Notification No FEMA 120-RB, 2004, obliges an Indian Party, which has acquired foreign security in terms of the Regulations to receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months.

4. The applicant was given an opportunity for personal hearing vide letter No.FE.CO.CEFA.No./2627/15.20.67/2018-19 dated November 21, 2019 for further submission in person and/ or producing documents, if any, in support of the application. Mr Arvind Jain, GM – Finance and Mr.Pawan Mathur, duly authorised by the company, admitted the contravention and submitted during the personal hearing held on December 4, 2019 that the contravention on the part of the applicant was unintentional and committed due to inadvertent circumstances and events. The application for compounding was considered based on the averments made in the application as well as submissions made in this context by the applicant.

5. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened Regulation 15(i) of Notification No. FEMA 120/2004-RB dated July 7, 2004 by refunding the share application money with a delay of more than 6 months (but less than 1 year).

6. It has been declared in the compounding application dated August 14, 2019, that the particulars given by the applicant in the application, are true and correct to the best of its knowledge and belief. It has been declared in the declaration dated August 14,



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/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. 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 payment of an amount of ₹ 10,000/- (Rupees Ten Thousand only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(i) of Notification No. FEMA 120/2004-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 ₹10,000/- (Rupees Ten Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 day the 9th of December, 2019

Sd/-

(Sharmila Thakur)
General Manager