



In the

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

Present

Ms. Usha Nambeesan
Assistant General Manager

Date: October 25, 2019
C.A. BGL 464/2019

In the matter of

M/s Dexhigh Services Private Limited
Unit No.2201A, 22nd Floor, WTC Bangalore
Brigade Gateway, Rajajinagar, Malleswaram
Bengaluru 560055
(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 July 29, 2019, received at this office of Reserve Bank of India, Bengaluru, on July 31, 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, allotment of shares prior to receipt of amount of consideration and delay in refund of excess share application money to the foreign investor, persons resident outside India, beyond 75 days from the date of receipt of inward remittance, 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 Dexhigh Servcies Private Limited, was incorporated on June 07, 2018, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Ministry of Corporate Affairs, Government of India. The company is engaged in the business of providing Software and Information Technology services to its clients.

3. The Company had allotted 99 equity shares worth ₹990.00, to the non-resident investor, Jeonggon Mun, Korea, on August 03, 2018. However, the inward remittance of ₹2,851.04, pertaining to the aforesaid allotment was received on December 13, 2018, with a delay of four months and ten days after the date of allotment of shares, leaving behind an excess share application money of ₹1,861.04. The excess amount of ₹1,861.04, was refunded to the non-resident investor on March 05, 2019, with a delay beyond the stipulated period of 75 days, from the date of receipt of inward remittance.

Whereas, in terms of Paragraph 2 of Schedule 1 to Notification No. FEMA 20 (R)/2017- RB dated November 07, 2017, for issue of capital instruments by an Indian company against any funds payable by it to the investor, the amount of consideration 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 and 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. If, the capital instruments are not issued within sixty days from the date of receipt of the consideration, the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR(B) accounts, as the case may be, within fifteen days from the date of completion of sixty days.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1059/22.11.707/2019-20, dated October 22, 2019, for further submission in person and/or producing documents, if any,



in support of the application. The applicant's authorized representatives, Mr. Thimothi Veerabathini, Director, Mr. Rohit Subramaniam, Advocate, and Ms. Navyashree, Advocate, who appeared for the personal hearing on October 25, 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 FEMA provision issued in terms of Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2017-RB, as the applicant had allotted the shares prior to receipt of inward remittance and refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 75 days from the date of receipt of amount of consideration, as detailed in paragraph 3 above. The contravention relates to an amount of **₹2,851.04**, and the period of delay ranges from seven days to four months and ten days.

6. It has been declared in the compounding application dated July 29, 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, 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 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 **₹39.00 (Thirty Nine 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 **₹39.00 (Thirty Nine only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd 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 Twenty Fifth day of October 2019.

Sd/-

(Usha Nambeesan)
Assistant General Manager