



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

Present
P S Khual
General Manager
Date: November 11, 2019
CA No. NDL 479/2019

In the matter of

Hong Guang De Technology India Private Limited
Property No. 215, Ground Floor Block B, Sector 8, Dwarka
New Delhi - 110077

(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 19, 2019 (received at Reserve Bank of India, New Delhi on June 24, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded is of delay in filing Form FC-GPR after issue of shares, in terms of paragraph 9(1)(B) 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 October 20, 2015, is engaged in the business of manufacturing, import, export and distribution of all types of technology products including mobile phones, mobile phones accessories, mobile chargers, machineries, electrical items, LCD television, tablets, home theatres, LED television.

(b) The applicant had issued 2,64,912 equity shares for a consideration of ₹58,28,064/- to its foreign investor, M/s HGD Industrial Co. Ltd., United Kingdom, on June 03, 2017 against inward remittance of ₹58,28,062/- received on April 04, 2017. The applicant reported the issue of shares in Form FC-GPR on June 07, 2019 with a delay of 1 year, 11 months and 4 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 the Form FC-GPR as specified by the Reserve Bank from time to time together with the documents prescribed therein.

(c) Thus, there is contravention of paragraph 9(1)(B) 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 Saurabh Kumar Lal, Sr. Accounts Executive and Shri Abhineet Srivastava, Company Secretary, appeared for personal hearing on November 11, 2019 on behalf of the applicant. The representatives of the applicant admitted the contravention committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that contravention was without any *malafide* or wilful intention but was mainly due to non-filing by the person assigned for the same and the applicant becoming aware of this contravention after the person concerned resigned from the company. They 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 provision of 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(b) above. The contravention relates to an amount of ₹58,28,064/- (Rupees Fifty Eight Lakh Twenty Eight Thousand and Sixty Four only) and the period of delay is 1 year, 11 months and 4 days.

5. It has been declared in the compounding application dated June 19, 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 dated October 21, 2019 furnished as a 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. 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.

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 contravention, 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 **₹24,000/- (Rupees Twenty Four Thousand only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contravention of paragraph 9(1)(B) 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 **₹24,000/- (Rupees Twenty Four Thousand 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 11th day of November 2019.

Sd/-
(P S Khual)
General Manager