



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Meghna Singh
Assistant General Manager

Date: May 21, 2019
CA No 4838 / 2018

In the matter of

Constant Design Limited Liability Partnership
H. No.397, Vaiguin Waddo, Nachinola,
Bardez, Goa 403508

(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 December 13, 2018 (received in the Reserve Bank on December 17, 2018), for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay in reporting the receipt of remittance in Form Foreign Direct Investment – LLP (I), beyond the stipulated time period of 30 days, in contravention of Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case) and para 6(i) (applicable from 03.03.2017 to 01.06.2017 in this case) of Schedule 9 of 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 as amended from time to time (hereinafter referred to as FEMA 20).

2. The relevant facts are as under: The applicant is a Limited Liability Partnership (LLP) incorporated on June 08, 2016, with Natalie Maria Melanie Lycops and Peter Anthony Fernandes as partners.

The applicant has received foreign inward remittance as capital contribution from Natalie Maria Melanie Lycops:

| Remitter | Amount received (Rs.) | Date of receipt | Date of reporting to RBI |
|---------------------------------|----------------------------------|------------------------|-------------------------------------|
| Natalie Maria Melanie Lycops | 2,97,000/- | 24.06.2016 | 01.06.2017 |

Delay in reporting of receipt of remittance by the LLP in Form LLP (I) was in contravention of Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case) and para 6(i) (applicable from 03.03.2017 to 01.06.2017 in this case) of Schedule 9 of FEMA 20. Administrative action of submission of Form Foreign Direct Investment – LLP (I) with RBI has since been completed. The applicant in the application has stated that there was a delay in reporting as the FIRC and the KYC were received with a delay from the Authorised Dealer (AD). Accordingly, comments were sought from the AD of the applicant HDFC Bank Ltd. The comments of the AD sent vide mail dated April 05, 2019, in this regard, have been taken into consideration.

3. In terms of Regulation 5(9) of FEMA 20:

“A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India, (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition/ transfer of profit shares in the capital structure of an LLP



under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.”

Further, para 7(i) of Schedule 9 of FEMA 20 specifies a time period of 30 days from the date of receipt of the amount of consideration, within which the LLP shall submit a report in Form Foreign Direct Investment – LLP(I) to the Reserve Bank of India. Para 6(i) of Schedule 9 of FEMA 20 provides the reporting requirements with regard to receipt of foreign remittances in LLPs.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/4895/15.20.67/2018-19 dated February 15, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant sought to be exempted from the personal hearing with the Compounding Authority vide email dated May 17, 2019.

It has also been declared in the compounding application dated December 13, 2018, 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 along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. 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.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and the comments of the applicant's AD, HDFC Bank Ltd.

5. I have given my careful consideration to the documents on record, it was observed that the applicant has contravened Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case) and para 6(i) (applicable from 03.03.2017 to 01.06.2017 in this case) of Schedule 9 of FEMA 20. The amount



of contravention is Rs. 2,97,000/- and the period of contravention is 7 months approximately.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 10, 583/- (Rupees ten thousand five hundred and eighty three only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(9) read with para 7(i) (applicable till 02.03.2017 in this case) and para 6(i) (applicable from 03.03.2017 to 01.06.2017 in this case) of Schedule 9 of FEMA 20, on payment of a sum of Rs. 10,583/- (Rupees ten thousand five hundred and eighty three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 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 the 21st May, 2019

Sd/-
(Meghna Singh)
Assistant General Manager