



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

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: April 24, 2019
C.A. BGL 340/2018

In the matter of

M/s Citymax Hotels (India) Private Limited
1st Floor, 77, Town Centre, Building No. 03,
East Wing, Off HAL Airport Road, Yamlur P.O.,
Bengaluru - 560037
(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 November 14, 2018, received at the office of Reserve Bank of India, Bengaluru, on November 14, 2018, 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, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 9(1)(B), of Schedule I 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 03, 2000, and Regulation 13.1(2) of 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,



respectively (hereinafter referred to as Notification No. FEMA 20/2000-RB and Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant, M/s Citymax Hotels (India) Private Limited, was incorporated on September 16, 2005, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The Company is engaged in the business of food/restaurant and entertainment under brands “Krispy Kreme and fun city. The applicant had received foreign inward remittances amounting to **₹170,49,47,740.03**, in thirty two installments during the period January-2006 to July-2018, from the non-resident investor, namely, M/s. Landmark Hospitality Services Limited, Mauritius, towards subscription to equity shares. The applicant was earlier compounded by Reserve Bank of India, for contravention of Paragraph 9(1)(A) of FEMA 20/2000-RB, vide compounding order CA.No.300/2008 dated December 18, 2008, in respect of reporting of the inward remittances received from the non-resident investor, M/s. Landmark Hospitality Services Limited, Mauritius, during the period January - 2006 to May – 2008. In view of the above, as per sub rule (2) of rule 4 of Foreign Exchange (Compounding Proceedings) Rules 2000, the following remittances, as shown below, are considered for compounding in this order:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	07-06-2012	7,00,00,000.00	26-06-2012
2	12-09-2012	22,30,00,000.00	17-10-2012
3	17-07-2013	5,83,00,000.00	12-08-2013
4	25-11-2013	8,49,00,000.00	11-12-2013
5	28-03-2017	5,00,00,000.00	11-05-2017
6	06-10-2017	14,31,00,000.00	31-10-2017
		62,93,00,000.00	



The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from five days to fourteen days, beyond the stipulated period of 30 days in respect of the remittances indicated at serial numbers 2 and 5, in the Table 1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days, from the date of receipt of the amount of consideration.

3. Further, the applicant was earlier compounded by Reserve Bank of India, for the contravention of Paragraph 9(1)(B) of FEMA 20/2000-RB, also, vide compounding order CA.No.300/2008 dated December 18, 2008, in respect of the delayed reporting of form FCGPRs, for the allotment of shares to the non-resident investor during the period February-2007 to September – 2008. In view of the above, as per sub rule (2) of rule 4 of Foreign Exchange (Compounding Proceedings) Rules 2000, the following share allotments, as shown below, are considered for compounding in this order:

Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	23-01-2012	396667	2,38,00,020.00	15-05-2012
2	25-09-2012	1166667	7,00,00,020.00	22-10-2012
3	04-12-2012	3716667	22,30,00,020.00	28-12-2012
4	29-07-2013	971667	5,83,00,020.00	27-08-2013
5	18-12-2013	1415000	8,49,00,000.00	13-01-2014
6	22-05-2017	1000000	5,00,00,000.00	01-06-2017
7	10-10-2017	2862000	14,31,00,000.00	07-11-2017
8	28-12-2017	847100	7,20,03,500.00	20-02-2018
9	18-07-2018	1176550	10,00,06,750.00	09-08-2018
	Total	13552318	82,51,10,330.00	



The applicant had filed form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from twenty four days to two months and twenty three days, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial numbers 1 and 8, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, and Regulation 13.1(2) of Notification No. FEMA 20(R)/2017-RB dated November 07, 2017, respectively, an Indian company issuing shares in accordance with these Regulations, has to submit to Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4680/22.06.805/2018-19 dated April 16, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Ramprasad S and Ms. Sonal Bhandari, Seretarial team, who appeared for the personal hearing on April 23, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that as the contraventions were 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 following FEMA provisions issued in terms of:

- (a) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards



subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of ₹27,30,00,000.00, and the period of delay ranges from five days to fourteen days; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB and Regulation 13.1(2) of Notification No. FEMA 20(R)/2017-RB, respectively, due to delay in submission of form FC-GPR to the Reserve Bank, after issue of shares to persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of ₹9,58,03,520.00, and the period of delay ranges from twenty four days to two months and twenty three days.

6. It has been declared in the compounding application dated November 14, 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 been declared in the declaration furnished with the compounding application that the applicant is under enquiry/investigation by Directorate of Enforcement as on the date of the application. Accordingly, RBI vide letter FE.BG.CEFA.No. 2639/22.06.805/2018-19, dated February 01, 2019, had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to Rule 8(2) of the Compounding Rules to compounding of the contraventions sought to be compounded by the applicant. While DoE vide its letter F.No.T-3/BGZO/08/2018 (AD BRM)/3338 dated February 12, 2019, has informed that the applicant company was under investigation, it has not raised any objections to compounding under any of the proviso to Rule 8(2) of the Foreign Exchange (Compounding Proceedings) Rules, as amended from time to time or any other provisions under FEMA, 1999. Thus, the compounding of contraventions related to reporting of transactions vide this Order is limited to the instances and aspects specifically mentioned in this Order. Accordingly, the compounding of the abovementioned contraventions under this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

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 contraventions are to be compounded and I consider that an amount of **₹4,54,518.00 (Rupees Four Lakh Fifty Four Thousand Five Hundred and Eighteen only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-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 **₹4,54,518.00 (Rupees Four Lakh Fifty Four Thousand Five Hundred and Eighteen 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 Fourth day of April 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru