



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

S.Arumugam
Assistant General Manager

Date: December 06, 2019
CA No 4971 / 2019

In the matter of

Isha Business Pvt Ltd
No.17, 1st Floor, Govindasamy Naidu Layout,
Singanallur,
Coimbatore 641005

(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the application dated June 12, 2019 (received at the Reserve Bank of India on July 09, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention that is sought to be compounded is for the delay in submission of Annual Performance Reports (APRs) within the stipulated time period.



The above amount to the contravention of Regulation 15(iii) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant Isha Business Private Limited is a Company incorporated in the year 2006, in India under the Companies Act, 1956 (CIN: U45201TZ2006PTC012571). The applicant is engaged in the business of building of complete constructions or parts thereof, civil engineering, garments etc. The applicant set-up a Joint Venture (JV), Isha Yoga (China) limited in China by remitting HKD 4,000 towards 40% stake in the JV. The applicant had not reported Annual Performance Reports (APRs) for the period 2014 to 2018 within the stipulated time period thereby contravening Regulation 15 (iii) of Notification *ibid*.

3. In terms of Regulation 15(iii) of Notification No.FEMA.120/2004-RB states that, "An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall submit to the Reserve Bank, through the designated Authorized Dealer, every year on or before a specified date, an Annual performance Report (APR) in Part III of Form ODI in respect of each JV or WOS outside India.....".

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2136/15.20.67/2019-20 dated October 25, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on November 05, 2019 during which Shri Jatin Parikh and Shri Sunderesan Ramamoorthy represented the applicant. The representatives, of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and the contravention was unintentional. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.



5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 15(iii) of Notification No.FEMA.120/2004-RB. The amount of contravention is Rs.31,080/- and period of contravention was up to four and half years approximately.

6. It has been declared in the compounding application dated January 29, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the Annex III of the Compounding Application dated January 29, 2018, that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application. 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. 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. 17,353/- (Rupees Seventeen Thousand Three Hundred and Fifty Three only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 15(iii) of Notification No.FEMA.120/2004-RB on payment of a sum of Rs.17,353/- (Rupees Seventeen Thousand Three Hundred and Fifty 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 6th of December, 2019

Sd/-
(S. Arumugam)
Assistant General Manager