



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
5th floor, Amar Building  
Fort, Mumbai - 400 001

Present

**Meenakshi Ganju**  
**Deputy General Manager**  
Date: December 06, 2019  
C.A. 4955/2019

In the matter of

**Fox Solutions**  
**M-9, MIDC Area, Ambad**  
**Nashik-422 010**

**(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 May 30, 2019 (received in the Reserve Bank of India on June 12, 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 relate to (i) Regulation 6(2)(vi) of Notification No. FEMA 120/2004-RB, dated July 07, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB), (ii) Regulation 6(3) of Notification No. FEMA 120/2004-RB and (iii) Regulation 15(iii) of Notification No. FEMA 120/2004-RB.

2. The relevant facts of the case are as follows:

2.1 The applicant company incorporated as Fox Solutions (company no. DNH/30/2007) on January 01, 2004 is engaged in the business of manufacturing of electricity distribution



and control equipment including voltage stabilizers. The applicant had set up a wholly owned subsidiary (WOS) viz., Fox Solutions FZE in UAE in December 2012 by borrowing AED 100,000 from an overseas lender. Undertaking overseas direct investment (ODI) by borrowing from overseas lender is not a prescribed method of funding under FEMA 120, thereby contravening Regulation 6(3) of Notification No. FEMA 120/ 2000-RB.

2.2 The applicant submitted Form ODI Part I for the aforesaid investment with delay, which was taken on record by Reserve Bank on July 26, 2017. The same is in contravention of Regulation 6(2)(vi) of Notification No. FEMA 120/ 2000-RB.

2.3 The applicant submitted APRs for the years 2014 to 2017 with delay on August 10, 2017 and January 25, 2018 in contravention of Regulation 15(iii) of Notification No. FEMA 120/ 2000-RB.

3. The following are the observed contraventions:

3.1 Whereas Regulation 6(3) of Notification No. FEMA 120/2004-RB states that investment under this Regulation may be funded out of one or more of the following sources, namely out of balance held in the Exchange Earners' Foreign Currency account of the Indian party, ..... drawal of foreign exchange from an authorised dealer in India.....;

3.2 Whereas Regulation 6(2)(vi) of Notification No. FEMA 120/2004-RB states that the Indian Party submits duly completed Part I of the Form ODI, as prescribed by the Reserve Bank from time to time, to the designated branch of an authorised dealer.

3.3 Whereas Regulation 15(iii) of Notification No. FEMA 120/2004-RB states that an Indian Party, which has acquired foreign security in terms of the Regulations in Part- I shall submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI, as prescribed by the Reserve Bank from time to time, in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time.

4. The applicant was given an opportunity for personal hearing vide letter No.FE.CO.CEFA.No./1289/15.20.67/2018-19 dated September 6, 2019 for further submission in person and/ or producing documents, if any, in support of the application. Mr. Sachin Ware, CA, who represented the company during the personal hearing held on December 2, 2019 represented that the contraventions on the part of the applicant were



unintentional and arose out of lack of knowledge about the legal requirements associated with the transaction, which the applicant had entered with an intention of setting up business abroad. The representative of the applicant also requested for a lenient view on the contraventions, in view of the fact, that they had approached the transaction only from a technical background and could not understand the 'legal complexities' of the matter. The application for compounding was considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.

5. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA120/2004-RB dated July 7, 2004:

(i) Regulation 6(2)(vi) - The amount of contravention, as declared by the applicant is ₹17,00,000/- and the period of contravention is from December 26, 2012 to July 26, 2017.

(ii) Regulation 6(3) - The amount of contravention, as declared by the applicant is ₹17,00,000/- and the period of contravention is from December 26, 2012 to April 19, 2018.

(iii) Para 15(iii) - The period of contravention as declared by the applicant is for four financial years from 2014 and 2017.

6. It has been declared in the compounding application dated May 30, 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 declaration dated May 30, 2019, 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/him/her thereafter. 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. 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 payment of an amount of ₹1,24,417/- (Rupees One Lakh Twenty Four Thousand Four Hundred and Seventeen only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of the Regulations 6(2)(vi), 6(3) and 15(iii) of Notification No. FEMA 120/2004-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹1,24,417/- (Rupees One Lakh Twenty Four Thousand Four Hundred and Seventeen only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 day the 6<sup>th</sup> of December, 2019

**Sd/-**

**(Meenakshi Ganju)**  
**Deputy General Manager**