



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

Present
Ajay Kumar
Regional Director for Delhi and CGM, New Delhi

Date: January 29, 2020
CA No. NDL 533/2019

In the matter of
911 India Healthcare Private Limited
Shop No. BAPU_G_7 at BAPU Badarpur Metro Station, South Delhi
Delhi - 110044
(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 August 13, 2019 (received at Reserve Bank of India, New Delhi on August 27, 2019) and addendum dated November 25, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, and (ii) delay in filing Form FC-GPR after issue of shares, in terms of paragraphs 9(1)(A) and 9(1)(B) respectively 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 then applicable, and (iii) issue of shares to person resident outside India prior to receipt of the amount of consideration, in terms



of paragraph 2(2) of Schedule 1 to 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 7, 2017 (hereinafter referred to as FEMA 20(R)/2017-RB), as then applicable.

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

(a) The applicant company, incorporated on September 21, 2012, is engaged in other information service activities n.e.c.

(b) The applicant had reported the receipt of foreign inward remittance on twenty one occasions from December 2014 to July 2019. On two occasions, the applicant had reported the receipt of remittances from its foreign investors with delay of 4 days and 2 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

| Sl. No. | Date of Receipt | Amount (₹) | Date of Reporting |
|---------|-----------------|-----------------------|-------------------|
| 1 | 10.09.2015 | 3,31,53,673.80 | 14.10.2015 |
| 2 | 18.10.2017 | 1,62,01,203.80 | 19.11.2017 |
| | Total | 4,93,54,877.60 | |

Whereas, in terms of paragraph 9(1)(A) 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 receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

(c) The applicant had reported the issue of shares on twenty occasions from December 2014 to July 2019. On two occasions, the applicant had reported the issue of shares to its foreign investors with delay of 2 days each beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

| Sl. No. | Date of Issue | Amount (₹) | Date of Reporting |
|---------|---------------|-----------------------|-------------------|
| 1 | 14.04.2016 | 3,33,52,677.97 | 16.05.2016 |
| 2 | 01.10.2016 | 3,31,73,976.15 | 02.11.2016 |
| | Total | 6,65,26,654.12 | |



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 Form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein. Further, on nine other occasions the delays were in contravention of the provisions of Regulation 13.1(2) of FEMA 20(R)/2017-RB, as then applicable, and the applicant paid Late Submission Fee (LSF) for the said contraventions as required in terms of Regulation 13.2 of FEMA 20(R)/2017-RB.

(d) The applicant had issued 7,701 equity shares on May 3, 2019 for a consideration of ₹69,32,702.03 against a remittance amounting to ₹69,32,613.20 received from its foreign investor on May 6, 2019 with a delay of 3 days, in contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable. Whereas, in terms of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

(e) Thus, there are contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, and paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-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 Balwan Bansal & Shri Ashish Bansal, both Chartered Accountant, and Ms. Pooja Kansal, Company Secretary, appeared for personal hearing on January 27, 2020 on behalf of the applicant. The representatives admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that the contraventions were without any *malafide* or wilful intention but were mainly due to inadvertence and delay in crediting the applicant's bank account by the AD bank. 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 following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in reporting foreign inward remittance received for issue of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹4,93,54,877.60 (Rupees Four Crore Ninety Three Lakh Fifty Four Thousand Eight Hundred Seventy Seven and Paise Sixty only) and the period of delays are 4 days and 2 days.

(b) 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(c) above. The contraventions relate to an amount of ₹6,65,26,654.12 (Rupees Six Crore Sixty Five Lakh Twenty Six Thousand Six Hundred Fifty Four and Paise Twelve only) and the period of delays are 2 days each.

(c) Paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable, on account of issue of shares to person resident outside India prior to receipt of inward remittance as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹69,32,613.20 (Rupees Sixty Nine Lakh Thirty Two Thousand Six Hundred Thirteen and Paise Twenty only) and the period of contravention is 3 days.

5. It has been declared in the compounding application dated August 13, 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 November 25, 2019 furnished as 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 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.



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 contraventions, 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 **₹1,20,663/- (Rupees One Lakh Twenty Thousand Six Hundred and Sixty Three only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, and paragraph 2(2) of Schedule 1 to FEMA 20(R)/ 2017-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 **₹1,20,663/- (Rupees One Lakh Twenty Thousand Six Hundred and Sixty Three 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 29th day of January 2020.

Sd/-
(Ajay Kumar)
Regional Director for Delhi and CGM, New Delhi