



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 : July 11, 2019
CA No 4860 / 2019

In the matter of

Red Education India Pvt. Ltd.
A-6/101, Vikas Complex, Castle Mill Compound,
LBS Road, Thane West,
Mumbai 400601

(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 January 03, 2019 (received in the Reserve Bank on January 14, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is adjustment of invoice amount against initial subscription capital by the applicant/Indian company without prior approval of the Reserve Bank and delay in reporting the allotment of shares in Form FCGPR to the Reserve Bank, which is in contravention of Regulation 4 and para 9(1) (B) of Schedule 1 read with Regulation 5(1) 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 was incorporated as Red Education India Private Limited under the Companies Act, 1956, on December 13, 2011. Red Education PTY Ltd., the holding company raised an invoice against the services provided to the applicant company. It was decided by the holding company and the applicant to adjust the invoice amount against initial subscription capital. Accordingly, the allotment of 10,000 shares for an amount of 1,00,000 was done without the approval of Reserve Bank in contravention of Regulation 4 of FEMA 20. Further, the applicant company submitted Form FCGPR with a delay of 5 years 10 months and 6 days thereby, contravening Para 9(1) (B) of Schedule 1 read with Regulation 5(1) of FEMA 20. Related details are:

| Name of investor | Date of allotment of shares | Amount | Number of shares | Date of reporting to RBI |
|-------------------------|------------------------------------|---------------|-------------------------|---------------------------------|
| Red Education Pty Ltd. | 09.01.12 | 1,00,000 | 10,000 | 15.12.17 |

3. In terms of Regulation 4 of FEMA 20:

Save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person:

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary

In terms of regulation 5(1) of FEMA 20:



A person resident outside India (other than a citizen of Bangladesh or Pakistan) or an entity incorporated outside India (other than an entity in Bangladesh or Pakistan), may purchase shares or convertible debentures or warrants of an Indian company under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule 1. Further, in terms of para 9(1) (B) of Schedule 1 of FEMA 20 an Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit to Reserve Bank not later than 30 days from the date of issue of shares, a report in form FC-GPR.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/7549/15.20.67/2018-19 dated June 24, 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 his e-mail dated June 27, 2019. The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.

It has also been declared in the compounding application dated January 03, 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 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 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.

The application is, therefore, being considered on the basis of the averments made in the application and the documents produced.



5. I have given my careful consideration to the documents on record and it was observed that the applicant has contravened Regulation 4 and para 9(1) (B) of Schedule 1 read with Regulation 5(1) of FEMA 20. The amount of contravention is Rs. 1,00,000/- and the period of contravention is 5 years 10 months and 6 days 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. 66,583 (Rupee sixty six 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 4 and para 9(1) (B) of Schedule 1 read with Regulation 5(1) of FEMA 20, on payment of a sum of Rs. 66,583 (Rupee sixty six 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 11th July, 2019

Sd/-
(Meghna Singh)
Assistant General Manager