



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

Shri.P Kalyan Chakravarthy  
Assistant General Manager

Date: February 20, 2019  
C.A. HYD 358

In the matter of

M/s. Synergy Apartment Services Private Limited  
Suite C4, 6th Floor, C-Block  
Divya Sree Omega Kondapur, Kothaguda  
Hitech City Road, Hyderabad - 500081

**(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 submitted the compounding application dated November 8, 2018 received by us on November 22, 2018 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India, (ii) delay in refund of excess share application money to a person resident outside India, (iii) delay in receipt of consideration after allotment of shares to a person resident outside India and (iv) delay in filing the annual return in respect of the Foreign Liabilities and Assets, in terms of Paragraph



9(1)(B), Paragraph 8 and Paragraph 9(2) 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 3<sup>rd</sup> May 2000 as then applicable (herein after referred to as Notification No. FEMA 20/2000-RB).

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

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act 2013 on May 21, 2015 (CIN: U74999TG2015FTC099005). The company is engaged in the business of Other business support service activities n.e.c.
- b) The applicant had received remittance amounting to ₹ 9,00,000/- from M/s Synergy Corporate Housing on February 1, 2016 towards share subscription and reported the same within the prescribed time limit of 30 days, in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.
- c) The company allotted equity shares and filed form FC-GPRs as indicated below:

Sl No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting to AD or RBI
1	Synergy Corporate Housing	21.05.2015	49,990	4,99,900	12.04.2017
2	Robert Roland McDaniel		5	50	
3	Sheila Ann Jessup Schwarz		5	50	
<b>Total</b>				<b>5,00,000</b>	



The applicant filed form FCGPR for the allotment of shares amounting to ₹ 5,00,000/- to the Regional Office of Reserve Bank of India, which were reported with a delay of 1 year 9 months 23 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

d) The applicant allotted 5,00,000 equity shares to the foreign investor prior to the receipt of consideration of share application money as shown below:

SI No	Name of Remitter	Amount (INR)	Date of Receipt of remittance	Date of Allotment
1	Synergy Corporate Housing	9,00,000	01.02.2016	21.05.2015
<b>Total</b>		<b>9,00,000</b>		

The applicant received the inward remittance of ₹ 9,00,000/- after the allotment of 5,00,000 equity shares with a delay of 8 months 12 days approximately in contravention of Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000 as then applicable.

e) The company has refunded the share application money to the foreign investor as shown below:

SI No	Name of Remitter	Date of receipt	Total amount received (INR)	Total amount allotted (INR)	Excess share application money (INR)	Date of seeking approval from RBI
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1	Synergy Corporate Housing	01.02.2016	9,00,000	5,00,000	4,00,000	31.01.2018
	<b>Total</b>		<b>9,00,000</b>		<b>4,00,000</b>	

The applicant has refunded the excess remittance from M/s Synergy Corporate Housing of an amount of **Rs 4,00,000/-** with a delay of 1 year 6 months 1 day approximately beyond the prescribed limit. Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13<sup>th</sup> November, 2007 in the official Gazette of the Govt. of India.

f) The applicant has filed Annual Return on Foreign Liabilities and Assets (FLA Return) for two financial years viz. 2015-16 and 2016-17 with a delay of 6 months 5 days approximately. Whereas in terms of Paragraph 9(2) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as then applicable, "All Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time].



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1651/14.66.003/2018-19 dated February 11, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide e-mail dated February 11, 2019 stated that they are foregoing appearing for the personal hearing and requested that the compounding application may be disposed off on the basis of merits in terms of the facts/submission made therein along with the compounding application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ **5,00,000/-** and the period of contravention is 1 year 9 months 23 days approximately.

(b) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007 delay in refund of excess share application money to the foreign investor and the contravention relates to an amount of ₹ **4,00,000/-** with a delay of 1 year 6 months 1 day approximately and for delay in receipt of consideration after allotment of shares to the non-resident investor and the contravention relates to an amount of ₹ **9,00,000/-** and the period of contravention is 8 months 12 days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in filing of Annual Return on Foreign Liabilities and Assets to Reserve Bank of India for two financial years viz. 2015-16 and 2016-17 with a delay of 6 months 5 days approximately.



5. It has been declared in the compounding application dated December 5, 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 dated December 5, 2018 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 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.

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. 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 an amount of **₹ 65,930 /- (Rupees Sixty Five Thousand Nine Hundred Thirty Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(2), Paragraph 9(1)(B) and Paragraph 8 of Schedule 1 to Notification No. FEMA-20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount **₹ 65,930 /- (Rupees Sixty Five Thousand Nine Hundred Thirty Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad within a period of 15 days from the date of this order. In case of failure to deposit the



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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 20<sup>th</sup> day of February 2019

Sd/-

(P Kalyan Chakravarthy)

Assistant General Manager