



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: September 09, 2019
C.A. BGL 436/2019

In the matter of

M/s JHY Techserve Private Limited
Katha No 13, Survey No 38/2A, 38/2B & 42
Madivala Village Kasaba Hobli, Marlur Taluk
Kolar - 563130
(Applicant)

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

ORDER

The applicant has filed a compounding application dated June 11, 2019, received at this office of Reserve Bank of India, Bengaluru on June 11, 2019, and addendum to the application dated August 29, 2019, received on August 29, 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 are, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in refund of excess share application money to the foreign investors/persons resident outside India, and (iii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 and 9(1)(B), respectively, of Schedule I 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 03, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant, M/s JHY Techserve Private Limited, was incorporated on December 31, 2014, under the Companies Act, 2013. The activity undertaken by the company is manufacturing, supplying, trading and marketing of automotive subassemblies and non-automotive subassemblies, RO water purifiers assembly, valves, plastic raw material and steels, hand tools, aerospace, etc. The applicant had received funds towards share application money from the non-resident investors, namely, M/s. JHY Global Limited, Taiwan, and M/s Jinshen Precision Co Limited, Taiwan, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	09-01-2015	2,36,47,400.00	12-08-2016
2	21-01-2015	30,74,435.00	12-08-2016
3	03-02-2015	3,39,18,500.00	19-02-2015
4	09-02-2015	61,94,050.00	19-02-2015
5	18-02-2015	80,70,585.00	12-03-2015
6	02-03-2015	23,46,975.00	12-03-2015
7	05-03-2015	19,48,213.00	12-03-2015
8	05-03-2015	38,45,934.00	12-03-2015
9	09-03-2015	39,31,883.00	12-03-2015
10	23-12-2015	46,20,959.00	04-02-2016
11	16-03-2016	94,20,600.00	17-03-2016
12	20-01-2017	2,03,69,321.00	27-01-2017
13	09-03-2017	26,39,048.00	21-03-2017
14	02-05-2017	64,09,250.00	22-05-2017
15	13-06-2017	51,44,600.00	05-07-2017
16	04-08-2017	31,73,378.00	04-09-2017



17	21-09-2017	64,49,976.00	18-10-2017
	Total	14,52,05,107.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one day to one year six months and four days, beyond the stipulated period of 30 days in respect of remittances as indicated at serial numbers 1, 2, 10 and 16, in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations, should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration.

3. The company had received inward remittances amounting to ₹7,72,51,945.00, in six tranches between January 09, 2015, to March 02, 2015, from the non-resident investor M/s. JHY Global Limited, Taiwan. The company had allotted 77,22,000 equity shares worth ₹7,72,20,000.00, and the excess share application money of **₹31,945.00**, was refunded to the non-resident investor M/s Jinshen Precision Co Limited, Taiwan, Holding company of M/s JHY Global Limited, Taiwan, with a delay beyond the stipulated period, on March 28, 2019, with prior approval from Reserve Bank of India. The company was accorded approval to refund the excess share application money, vide Reserve Bank's letter No.FE.BG.FID.No.3167/21.09.345/2018-19, dated February 22, 2019.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000, and as amended from time to time, 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.

4. The company had allotted equity shares to the non-resident investors and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares equity allotted	Amount (INR)	Date of reporting to RBI/AD
1	10-03-2015	7722000	7,72,20,000.00	02-05-2015
2	01-05-2015	498079	49,80,790.00	01-06-2015
3	19-02-2016	461917	46,19,170.00	12-04-2016
4	12-04-2016	942060	94,20,600.00	30-04-2016
5	02-02-2017	2036932	2,03,69,320.00	21-02-2017
6	20-04-2017	263904	26,39,040.00	18-05-2017
7	10-06-2017	640925	64,09,250.00	08-07-2017
8	24-07-2017	514460	51,44,600.00	22-08-2017
9	14-09-2017	317337	31,73,370.00	19-10-2017
	Total	13397614	13,39,76,140.00	

The applicant had filed form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one day to twenty three days, beyond the prescribed period of 30 days in respect of allotment of shares indicated at serial numbers 1, 2, 3 and 9, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to the Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID.(CEFA) No. 665/22.09.345/2019-20, dated September 04, 2019, for further submission in person, and/or producing documents, if any,



in support of the application. The applicant's authorized representative, Mr. Venkatraman Hegde, Practicing Company Secretary, who appeared for the personal hearing on September 09, 2019, admitted the contraventions as stated in paragraphs 2, 3, and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, the representative of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

6. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in Paragraph 2 above. The contravention relates to an amount of **₹3,45,16,172.00**, and the period of delay ranges from one day to one year six months and four days;
- (b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in Paragraph 3 above. The contravention relates to an amount of **₹31,945.00**, and the period of contravention is three years six months and twenty seven days; and
- (c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPR to the Reserve Bank, after issue of shares, to person resident outside India as detailed in Paragraph 4



above. The contravention relates to an amount of **₹8,99,93,330.00**, and the period of delay ranges from one day to twenty three days.

7. It has been declared in the compounding application dated June 11, 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 undertaking, 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. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this order is 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.

8. 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 contraventions are to be compounded, and I consider that an amount of **₹1,20,269.00 (Rupees One Lakh Twenty Thousand Two Hundred and Sixty Nine only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8, and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹1,20,269.00 (Rupees One Lakh Twenty Thousand Two Hundred and Sixty Nine only)**, which shall be deposited by the applicant with



the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, payable at Bengaluru, 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 of accordingly.

Dated this, the Ninth day of September 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru