



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad – 380014

Present
Santosh Kumar Panigrahy
Chief General Manager

February 12, 2020
CEFA.CO.ID.11744 / C.A. No. AHM - 142 / 2019-20

Matter
CS Laser LLP
(LLP Identification Number: AAG-0637)

Plot No. 28 & 29, 2nd Floor, C/o Sahajanand Laser Technology Limited, GIDC,
Electronics IT/ITES, SEZ, Gandhinagar – 382 028
Gujarat

(Applicant)

In exercise of the powers conferred under Section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following order:



Order

CS Laser LLP (hereinafter referred to as applicant) has filed the application dated September 13, 2019, complete in all respects, 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 are (i) delay beyond 30 days in submitting report in Form Foreign Direct Investment (FDI) – LLP(I) from the date of receipt of amount of consideration to the Reserve Bank, through Authorised Dealer bank (AD bank) towards capital contribution and 'profit shares' in the LLP as required under Paragraph 7(i) of Schedule 9 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB); (ii) Delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) as required under Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015; and (iii) Delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) as required under Regulation 13.1(3) of Notification No.20R/2017-RB dated November 07, 2017 (hereinafter referred to as Notification No. FEMA 20R/2017-RB). The said Regulations have been issued by the Reserve Bank of India in exercise of its powers under the provisions of the FEMA, 1999.

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

(i) The applicant was incorporated on March 29, 2016 under the provisions of the Limited Liability Partnership Act, 2008 (LLP Identification Number: AAG-0637). The applicant has received one foreign inward remittance amounting to **₹1,33,37,365/-** under the automatic route from “a person resident outside India” viz. COSET INC., South Korea as consideration towards capital contribution in the LLP.

(ii) The receipt of the foreign inward remittance from the “person resident outside India” was reported by the applicant by filing form FDI-LLP (I). The details of remittance are given below:



Reporting under Paragraph 7(i) of Schedule 9 to
Notification No. FEMA 20/2000-RB

(Table 1)

Sl. No.	Name of the remitter	Amount of foreign inward remittance (₹)	Date of receipt	Date of reporting by company to RBI*	Delay beyond prescribed period of 30 days
1	COSET INC., South Korea	1,33,37,365/-	28.10.2016	02.04.2019	856

**For the purpose of calculation of delay under Paragraph 7(i) of Schedule 9, date of reporting by the applicant to AD Bank is taken as date of reporting to RBI.*

(a) As indicated in the Table 1 above, the applicant reported in Form FDI-LLP(I) the receipt of one foreign inward remittance amounting to **₹1,33,37,365/-** to the Ahmedabad Regional Office of the Reserve Bank of India through its AD bank with a delay of 856 days beyond the prescribed period of 30 days from the date of receipt of consideration towards capital contribution in LLP.

(b) In terms of Regulation 5(9) of the Notification No. FEMA 20/2000-RB “A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (other than an entity in Pakistan or Bangladesh), not being a Foreign Portfolio Investor or Foreign Institutional Investor or Foreign Venture Capital Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition / transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9 to Notification No. FEMA 20/2000-RB.” Further, Paragraph 7(i) of Schedule 9 to Notification No. FEMA.20/2000-RB mandates that LLPs shall report to the Regional Office concerned of the Reserve Bank, the details of the receipt of the amount of consideration for capital contribution and 'profit shares' in Form FDI-LLP(I) as specified by Reserve Bank from time to time. LLP receiving foreign investment shall submit Form FDI-LLP (I) to the Regional Office concerned of the RBI in whose jurisdiction the registered office of LLP is situated, within 30 days from the date of receipt of amount of consideration.



(c) The applicant has thus failed to submit the report in Form FDI-LLP(I) within the time frame as required under Paragraph 7(i) of Schedule 9 to Notification No. FEMA 20/2000-RB, thereby contravening the provisions of the said Notification.

(iii) The applicant has filed FLA Returns with delay for the financial years 2016-17, 2017-18 and 2018-19 as provided below:

Reporting under Paragraph 7(iv) of Schedule 9
to Notification No. FEMA 20/ 2000-RB

(Table 2)

Sl. No.	Financial Year	Due Date of Filing	Date of Actual Filing	Delay in no. of Days
1	2016-17	15.07.2017	31.12.2019	899

Reporting under Regulation 13.1(3) of
Notification No.20 R/2017-RB

(Table 3)

Sl. No.	Financial Year	Due Date of Filing	Date of Actual Filing	Delay in no. of Days
1	2017-18	15.07.2018	31.12.2019	534
2	2018-19	31.07.2019*	31.12.2019	153

* Due date for the financial year 2018-19 was extended from July 15, 2019 to July 31, 2019, as per FLAIR system website.

(a) As indicated in the Table 2 and 3 above, the applicant filed FLA Return for the financial years, 2016-17, 2017-18 and 2018-19 with the delay beyond the due date of filing ranging from 153 to 899 days.

(b) In terms of Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015 as amended from time to time, "All LLPs 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' as specified by the Reserve Bank from time to time".



- (c) Notification No.20R/2017-RB dated November 07, 2017 was issued with effect from November 7, 2017. In terms of Regulation 13.1(3) to Notification No. FEMA 20(R) / 2017-RB as amended from time to time, “An Indian company which has received FDI or an LLP which has received investment by way of capital contribution in the previous year(s) including the current year, should submit Form FLA to the Reserve Bank on or before the 15th day of July of each year”.
- (d) The applicant has thus failed to report the FLA Returns within the time frame as required under Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015 and Regulation 13.1(3) of Notification No.20 R/2017-RB, thereby contravening the provisions of the said Notifications.

3. The applicant was offered an opportunity for personal hearing vide letter FE.AH.No.768/06.04.15/CEFA/2019-20 dated December 20, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated January 29, 2020 requested to dispose of its application as per documents already submitted and sought an exemption from personal hearing with the Compounding Authority. The applicant admitted in its application to the contraventions for which compounding has been sought and stated that the delay occurred unintentionally due to lack of proper knowledge, guidance and procedural delay in getting documents. Further, they have also stated that they will not repeat such mistakes in future and requested for a lenient view in disposal of the application and they are willing to accept any direction/order of the Compounding Authority in connection with their compounding application. The application for compounding is, therefore, being considered on the basis of the statements made in the application, documents and submissions made in this context by the applicant/representatives.

4. It has been declared in the compounding application 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 that the applicant was not under any enquiry / investigation / adjudication by any investigating 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 the FEMA, 1999. 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.

5. I have given my careful consideration to the documents on record and submissions made by the applicant in its application. I am satisfied and hold that the applicant has contravened the statutory requirement in terms of:

A) Paragraph 7(i) of Schedule 9 to Notification No. FEMA 20/2000-RB, due to delay beyond 30 days in submitting the report in Form FDI – LLP(I) from the date of receipt of amount of consideration to the Reserve Bank, through AD bank towards capital contribution and 'profit shares', as detailed in paragraph 2(ii) above. The amount of contravention involved is ₹1,33,37,365 and delay in submission is 856 days.

B) Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015, due to delay in filing the Annual Return in respect of the Foreign Liabilities and Assets, as detailed in paragraph 2(iii) above and delay in submission is 899 days for the financial year 2016-17.

C) Regulation 13.1(3) of Notification No.20 R/2017-RB, due to delay in filing the Annual Return in respect of the Foreign Liabilities and Assets, as detailed in paragraph 2(iii) above and delay in submission is 534 days and 153 days for the financial years 2017-18 and 2018-19 respectively.

6. In terms of Section 13 of the FEMA, 1999, 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 therefore, I consider that the penalty of ₹1,61,000/- (Rupees One Lakh Sixty One Thousand only) will meet the ends of justice.



7. Accordingly, I compound the admitted contraventions, namely contravention of Paragraph 7(i) of Schedule 9 to Notification No. FEMA 20/2000-RB, as then applicable; Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015; and Regulation 13.1(3) of Notification No.20 R/2017-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 ₹1,61,000/- (Rupees One Lakh Sixty One Thousand only). The same shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad - 380014 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Ahmedabad 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.

8. The above Order is passed only in respect of contraventions of Paragraph 7(i) of Schedule 9 to Notification No. FEMA 20/2000-RB, as then applicable; Paragraph 7(iv) of Schedule 9 to Notification No. FEMA 20/ 2000-RB read with A.P. (Dir Series) Circular No. 22 dated October 21, 2015; and Regulation 13.1(3) of Notification No.20 R/2017-RB and does not restrict the right of any other authority to proceed against the applicant for any other violations / contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated the 12th day of February, 2020.

Sd/-

(Santosh Kumar Panigrahy)
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)