



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 01, 2020
CA No. NDL 512/2019

In the matter of
Expedient Healthcare Marketing Private Limited
A-26, Omega Centre, 1st Floor, Infocity-1, Sector-34, Gurugram
Haryana - 122001

(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 07, 2019 (received at Reserve Bank of India, New Delhi on August 08, 2019) and addendum dated November 20, 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 remittances received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) delay in refund of excess share application money, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 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.



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

(a) The applicant company, incorporated on December 02, 2013, is engaged in the business of independent diagnostic/pathological laboratories.

(b) The applicant had reported the receipt of foreign inward remittance from its foreign investors on twenty occasions during the period November 2015 to March 2018 and reported two of them with delay of 1 day and 1 month & 21 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	27.11.2015	1,64,75,000.00	28.12.2015
2	18.08.2016	1,65,05,000.00	07.11.2016
	Total	3,29,80,000.00	

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 shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with a copy/ies of documents prescribed therein. Further, on two other occasions the delay was in contravention of the provisions of Regulation 13.1(1) of FEMA 20(R)/2017-RB, as then applicable, and the applicant has paid Late Submission Fee (LSF) for the said contraventions as required in terms of Regulation 13.2 of FEMA 20(R)/2017-RB.

(c) The applicant had reported issue of shares/debentures to its foreign investors on seven occasions and reported four of them with delay ranging from 1 day to 1 month and 5 days 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	25.01.2016	6,26,14,000.00	09.03.2016
2	07.10.2016	11,55,21,867.00	16.11.2016
3	24.07.2017	70,34,000.00	24.08.2017
4	24.07.2017	31,87,000.00	28.09.2017
	Total	18,83,56,867.00	

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 the Form FC-GPR as specified by the Reserve Bank from time to time together with the documents prescribed therein.

(d) Further, against the remittance of ₹33,15,000/- received on June 19, 2017, the applicant issued shares amounting to ₹31,87,000/- to is foreign investor on July 24, 2017 and sought RBI approval for refund of the excess amount of ₹1,28,000/- on January 05, 2018 with a delay of 20 days. The approval was granted on January 22, 2018 and the excess amount was refunded on January 30, 2018, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, a company in India issuing shares or convertible debentures or warrants under this Schedule to a person resident outside India shall receive the amount of consideration for such shares or convertible debentures or warrants by inward remittance through normal banking channels, or by debit to NRE / FCNR (B) account of the person concerned maintained with an authorised dealer / authorized bank, or by debit to a non-interest bearing Escrow account (in Indian Rupees) maintained in India with an AD bank in accordance with Foreign Exchange Management (Deposit) Regulations, 2000, provided that if the shares or convertible debentures or warrants are not issued within 180 days from the date of receipt of the inward remittance or date of NRE / FCNR (B) / Escrow account, the amount of consideration so received shall be refunded to the person concerned by outward remittance through normal banking channels or by credit to his NRE / FCNR (B) account, as the case may be; provided further that the Reserve Bank, may on application made to it and for sufficient reasons permit an Indian company to refund the amount of consideration received towards issue of security, if such amount of consideration is outstanding beyond a period of 180 days from the date of receipt.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-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. Ms. Garima Munjal, Company Secretary and Shri Dhruv Manchanda, Advocate, appeared for personal hearing on December 30, 2019 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 on account of delay in receipt of KYC document, non-availability of authorized signatory of the company during the period of filing, etc. 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 ₹3,29,80,000/- (Rupees Three Crore Twenty Nine Lakh and Eighty Thousand only) and the period of delays are 1 day and 1 month & 21 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/ debentures as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹18,83,56,867/- (Rupees Eighteen Crore Eighty Three Lakh Fifty Six Thousand Eight Hundred and Sixty Seven only) and the period of delays ranges from 1 day to 1 month and 5 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in refund of excess share application money as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹1,28,000/- (Rupees One Lakh Twenty Eight Thousand only) and the period of delay is 20 days.

5. It has been declared in the compounding application dated August 7, 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 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. 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 contraventions 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 **₹91,061/- (Rupees Ninety One Thousand and Sixty One 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), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-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 **₹91,061/- (Rupees Ninety One Thousand and Sixty One 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 1st day of January 2020.

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