



In the

RESERVE BANK OF INDIA

Foreign Exchange Department

6, Sansad Marg

New Delhi-110001

Present

Md. Shakir Hasan

Assistant General Manager

Date: January 6, 2020

C.A.NDL 513/2019

In the matter of

DS Finworld Private Limited

2470, Hudson Line, Kingsway Camp GTB Nagar, New Delhi 110009

(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 8, 2019 (received at Reserve Bank of India, New Delhi on August 13, 2019) and addendum dated October 16, 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 remittance 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 company, incorporated on October 7, 2015, is engaged in the business of facilitating information flow of financial services consumer products, online as well as offline.

(b) The company had received the inward remittance of ₹4,89,127.51 on September 29, 2017 from its foreign investor M/s Carions FZE, UAE and reported the same on November 09, 2017 with a delay of 11 days beyond the prescribed period, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB dated May 3, 2000, as then applicable. 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 of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

c) The applicant had issued 27 equity shares for a consideration of ₹477,036.00 to its foreign investor M/s Carions FZE, UAE on October 27, 2017 and reported the same in Form FC-GPR on June 17, 2019 with a delay of 1 year, 6 months and 22 days beyond the prescribed period, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable. 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 Form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) The applicant had received ₹4,89,127.51 on September 29, 2017 from its foreign investor M/s Carions FZE, UAE and issued 27 equity shares for a consideration of ₹477,036.00 on October 27, 2017. The excess share application money amounting to ₹12,091.50 was refunded to the foreign investor on May 30, 2019 with a delay of 1 year, 2 months and 2 days beyond the prescribed period, 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, equity instruments should be issued within 180 days of the receipt of inward remittance. In case, the equity instruments 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 by outward remittance through normal banking channels. Provided that 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.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 of 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. Kusum Lata Singh and Shri Ajay Khandelwal, both consultants, appeared for personal hearing on January 2, 2020 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that delays were without any *malafide* or wilful intention but were mainly due to lack of awareness about the FEMA compliances. 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 dated May 3, 2000, as then applicable, due to delay in reporting foreign inward remittance received for issue of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹4,89,127.51 (Rupees Four Lakh Eighty Nine Thousand One Hundred Twenty Seven and Paise Fifty One only) and the period of delay is 11 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB dated May 3, 2000, as then applicable, on account of delay in filing Form FC-GPR after issue of shares as detailed



in paragraph 2(c) above. The contravention relates to an amount of ₹4,77,036.00 (Rupees Four Lakh Seventy Seven Thousand and Thirty Six only) and the period of delay is 1 year, 6 months and 22 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB dated May 3, 2000, as then applicable, due to delay in refund of excess share application money beyond the prescribed period as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹12,091.50 (Rupees Twelve Thousand Ninety One and Paise Fifty only) and the period of delay is 1 year, 2 months and 2 days.

5. It has been declared in the compounding application dated August 8, 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 dated August 8, 2019 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 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 contravention 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 **₹23,171.00 (Rupees TwentyThree Thousand One Hundred and Seventy 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 **₹23,171.00 (Rupees Twenty Three Thousand One Hundred and Seventy 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 6th day of January 2020.

Sd/-
(Md. Shakir Hasan)
Assistant General Manager