



In the
Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present
R. Srivastava
Assistant General Manager

Date: January 29, 2019
C.A.085/2019

In the matter of
M/s Fiamoli Management & Business Consulting Pvt. Ltd.
79, Lenin Sarani
Kolkata-700013
West Bengal
(Applicant)

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

Order

The applicant had filed a compounding application dated December 5, 2018 (received at Reserve Bank on December 7, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded is for delay in issue of instrument beyond the stipulated period of 180 days after receipt of inflow and also delay in submission to the Reserve Bank of both Form ARF after receipt of inflow from a person resident outside India and Form FC-GPR after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of Paragraph 8, 9(1)(A) and 9(1)(B) respectively to 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 03, 2000 and 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 Fiamoli Management & Business Consulting Private Limited, was incorporated under Companies Act, 2013, on September 08, 2014. The applicant is in the business of wholesale of metals and metal ores. The applicant had received foreign inward remittances for subscription to equity shares under the Automatic Route from foreign investors. The applicant had reported the two inward remittances with delay ranging from 483 days to 839 days beyond the stipulated period of 30 days, as tabulated in Table 1 below.

Table 1: Delayed reporting of inflow of foreign remittances

Sl. No.	Name of Investor	Inflow (INR)	Inflow (Euro)	Date of inflow	Date of reporting of inflow to RBI	Delay beyond 30 days (Days)
1	Martina Fiamoli	1,14,315.00	1,500.00	30-Dec-14	17-May-17	839
2	Miroslava Saratova	71.53	1.00	21-Dec-15	17-May-17	483

3. The applicant allotted equity shares to the foreign investors as detailed in table 2 below. The first allotment had been done with a delay of 158 days beyond the stipulated period of 180 days.

Table 2: Delayed reporting of inflow of foreign remittances

Sl. No.	Inflow (INR)	Date of Inflow	Date of allotment of shares	Amount for which shares issued (INR)	Excess Amount	Date of refund	Delay in allotment of shares beyond 180 days
1	1,14,315.00	30-Dec-14	03-Dec-15	99,990.00	14,325.00	N/A	158
2	71.53	21-Dec-15	03-Dec-15	10.00	61.53	N/A	0

4. The allotments of shares had been reported in form FC-GPR to the Reserve Bank on dates as indicated in Table 3 below.



Table 3: Allotment of shares to foreign investors and reporting thereof

Sl. No.	Inflow (INR)	Amount for which shares have been issued	Date of inflow	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	1,14,315.00	99,990.00	30-Dec-14	03-Dec-15	17-May-17	501
2	71.53	10.00	21-Dec-15	03-Dec-15	17-May-17	501

Both of the two allocation of shares had been reported with delay of 501 days beyond the stipulated period of 30 days. Whereas in terms of para 9(1) B of schedule 1 to FEMA 20/2000-RB, 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 person resident/ outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.CEFA.1099/06.01.002/2018-19 dated January 17, 2019, for further submission in person and/or producing documents, if any, in support of the application. On the date of personal hearing, i.e., January 29, 2019, the applicant represented by Mr. Sudip Panja (Accounts Manager), admitted the contraventions as stated in para 2, 3 & 4 of this Order. During the personal hearing, the applicant requested to take a lenient view in the matter.

6. 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/his/her knowledge and belief. It has 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/him/her 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. The contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.

7. 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 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 1,14,386.53 and the period of delay, rounded off to the next month is ranging from seventeen months to twenty eight months.
- b. Paragraph 8 of Schedule 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 1,14,315 and the period of delay, rounded off to the next month is six months.
- c. Paragraph 9(1)(B) of Schedule 1 of Notification No.FEMA 20/2000-RB dated May 03, 2000. The contravention relates to an amount of Rs. 1,14,386.53 and the period of delay, rounded off to the next month is seventeen months.

8. In terms of section 13 of the FEMA, any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. Considering the circumstances which led to the delay and other relevant facts of the case, I am, however, inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of Rs. 72,098 (Rupees Seventy Two Thousand and Ninety Eight only) will meet the end of justice.



9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraph 8, 9(1)(A) and 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Rs. 72,098 (Rupees Seventy Two Thousand and Ninety Eight only) which is to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Sd/-

(R. Srivastava)

Assistant General Manager

Dated this Twenty Ninth day of January, 2019