



In the

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

Present

Shri G Jeyakumar
Deputy General Manager

Date: December 11, 2017
C.A. BGL 246/2017

In the matter of

M/s Bigtec Private Limited
2nd Floor, Golden Heights, 59th C Cross
4th M Block, Rajajinagar
Bengaluru - 560010
(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 July 14, 2017, received at this Office of the Reserve Bank of India, Bengaluru, on July 18, 2017, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA), and the Regulations issued there under. The contravention sought to be compounded is allotment of shares as swap without prior approval of the Government, in terms of Paragraph 2, Sub Para 4(v) 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 3, 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: M/s Bigtec Private Limited, was originally incorporated as M/s Madhu Financial Services on July 03, 1996, under the Companies Act, 1956. Subsequently the name of the company was changed to M/s Bigtec Limited, and again changed to M/s Bigtec Private Limited with effect from November 22, 2000. The Company is mainly engaged in the business of healthcare centric R&D activities.

3. M/s Bigtec Private Limited is the subsidiary of its Holding company, M/s Bigtec Innovations Private Limited. M/s Bigtec Private Limited swapped 178128 equity shares of the two Non-resident investors in the company, namely, M/s Sujay Limited (89064 shares) and M/s Chewbacca Services Limited (89064 shares), with M/s Bigtec Innovations Private Limited in the ratio of 1:2, and were allotted 178128 equity shares each on October 20, 2015, at an issue price of Rs.10.00 per share, without obtaining the approval of Foreign Investment Promotion Board (FIPB). Whereas, in terms of Paragraph 2, Sub Para 4(v) of Schedule 1 to Notification No. FEMA 20/2000-RB, a company engaged in a sector where foreign investment requires Government approval, may issue shares to a non-resident through swap of shares only with the approval of the Government. The post facto approval for the above swap allotment was granted by FIPB vide their letter dated April 26, 2017. In the FIPB approval, the company was advised to approach the Reserve Bank for compounding within 90 days of the approval.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.1999/22.07.460/2017-18 dated December 04, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Shri Suresh Kini K, General Manager and Ms. Rashmi Jadhav, Associate Chartered Accountant, who appeared for the personal hearing on December 07, 2017, admitted the contravention as stated in Paragraph 3 above, committed by the applicant, for which compounding has been sought.



During the personal hearing, it was submitted that the contravention was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they requested to take a lenient view 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.

5. 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 2, Sub Para 4(v) of Schedule 1 to Notification No. FEMA 20/2000-RB due to allotment of shares as swap without prior approval of Government. The contravention relates to an amount of Rs. 17,81,280.00/- and the duration of the contravention is one year six months six days approximately;

6. 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 **Rs.59,800.00 (Rupees Fifty Nine Thousand Eight Hundred only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraph 2, Sub Para 4(v) 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 **Rs.59,800.00 (Rupees Fifty Nine Thousand Eight**



Hundred 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” and 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 Eleventh day of December, 2017.

Sd/-

(G Jeyakumar)
Deputy General Manager