



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
Anupam Sonal
Chief General Manager

Date: January 5, 2018
C.A.NDL 260/2017

In the matter of

Apollo Logisolutions Limited
Office No. 303, Third Floor, DLF Courtyard, Saket, New Delhi 110017

(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 a compounding application dated October 16, 2017 (received in Reserve Bank of India on October 18, 2017) 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 of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)(A) 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 3rd May, 2000 as amended from time to time (hereinafter referred to as FEMA 20/2000- RB) as then applicable as also (ii) delay in submission of form FC-GPR after allotment of shares in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB.

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



- a) The applicant company was initially incorporated by the name of Seaport Container Terminal Pvt. Ltd. on February 20, 1989. Subsequently company's name changed to Seaport Container Terminal Ltd. on 05.10.2007 and further changed to Apollo Logisolutions Ltd. on 17.09.2008 and allotted registration number U63020DL1989PLC174286. The company is engaged in the business of developing, managing, purchasing warehouses, cold storages, container freight stations, container depots and transportation facilities.
- b) The company had received a total of 11 foreign inward remittances from June 5, 2007 to May 27, 2014 for issue of equity shares, out of which, on 4 occasions, the company had reported inward remittances with delay ranging from 9 days to 4 months and 8 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Contravention of Para 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB			
S.No.	Date of Receipt	Amount (Rs.)	Date of reporting to RBI
1	08.07.2011	3,48,77,529.00	15.12.2011
2	21.03.2013	5,41,86,748.60	29.04.2013
3	02.04.2013	5,21,15,142.60	18.06.2013
4	03.04.2013	5,36,31,363.60	18.06.2013
	Total	19,48,10,783.80	

Whereas, in terms of Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, receipt of amount of consideration towards share subscription not later than 30 days from the date of receipt of the said amount.

- c) The company had allotted equity shares on 8 occasions, out of which, on 5 occasions reported it in form FC-GPR with a delay ranging from 1 months and 19 days to 9 months (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.



Contravention of Para 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-				
S.No.	Date of Allotment	No. of Shares Allotted	Amount (Rs.)	Date of reporting to RBI
1	22.03.2013	296185	10,66,26,600.00	30.09.2013
2	11.04.2013	444268	15,99,36,480.00	11.02.2014
3	01.10.2013	254814	11,54,30,742.00	20.12.2013
4	19.02.2014	254813	11,26,27,346.00	01.11.2014
5	01.07.2014	254813	10,57,47,395.00	10.12.2014
			60,03,68,563.00	

Whereas, in terms of Paragraph 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 Reserve Bank a report in Form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to a person resident outside India. Thus, there are contraventions of Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA Notification No 20 /2000-RB dated May 3, 2000.

3. The applicant company was given an opportunity for personal hearing for further submission in person and/or by producing documents, if any, in support of the application. Sh. Gaurav Mittal, Sh. Abhishek Bansal and Ms. Laxmi Sinha, authorised representatives of the applicant company appeared for the personal hearing on January 5, 2018 on behalf of the company. The representatives of the applicant company admitted the contraventions committed by the company for which the company has sought compounding. They stated that the delay was due to omissions made on part of the legal and secretarial team of the company. They further stated that delay was without any malafide or wilful intention on their part. Further, they requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as submissions made in this context by the applicant company 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 due to delay in reporting the inflow of funds from a person resident outside India. The contravention relates to an amount of Rs.19,48,10,783.80 and the delay ranging from 9 days to 4 months and 8 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of form FC-GPR with RBI. The contravention relates to an amount of Rs.60,03,68,563.00 and the delay ranging from 1 month and 19 days to 9 months.

5. It has been declared in the compounding application dated October 16, 2017 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration dated December 27, 2017 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 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.3,13,000/-(Rupees Three lakh thirteen thousand only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000- RB by the applicant on the facts detailed



above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of Rs.3,13,000/-(Rupees Three lakh thirteen thousand 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 of accordingly.

Dated this the 5th day of January, 2018.

Sd/-

(Anupam Sonal)
Chief General Manager