



In the

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

Present

Shri. Anup Kumar
General Manager

Date: February 06, 2018
C.A. BGL 274/2017

In the matter of

M/s Niasha Youth Hostel Private Limited
D No 8-4/5, Saathvik,
Near Christha Devalaya
Kodikal, Ashoknagar
Mangalore - 575006
(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 December 14, 2017, received at this Office of the Reserve Bank of India, Bengaluru, on December 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 contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity, and (ii) delay in submission of Form FC-GPR to the Reserve Bank, after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A) and 9(1)(B), respectively, 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 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: M/s Niasha Youth Hostel Private Limited, was incorporated on December 29, 2014, under the Companies Act, 2013. The activity undertaken by the company is to carry on the business of hostel and high end studio type accommodation. The applicant had received funds towards share application money from foreign investors, namely, Mr. Ramesh Bolar, USA and Mrs. Kavita Kumra, USA, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	18-05-2015	6,50,000.00	09-05-2017
2	18-05-2015	3,50,000.00	09-05-2017
3	17-10-2015	2,00,000.00	09-05-2017
4	27-11-2015	2,00,000.00	25-07-2017
5	03-08-2016	23,34,588.00	07-11-2016
6	24-08-2016	2,09,192.00	07-11-2016
7	11-08-2016	16,61,250.00	07-11-2016
8	24-05-2017	12,77,100.00	24-07-2017
9	19-05-2017	10,29,600.00	21-08-2017
	Total	79,11,730.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from one month and one day to one year ten months and twenty two days approximately, beyond the stipulated period of 30 days, in respect of all remittances as indicated in Table-1 above. Whereas, in terms of paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations, should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days, from the date of receipt of the amount of consideration.

3. The company allotted equity shares and filed Form FC-GPR with Reserve Bank/AD Bank as indicated below:



Table-2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD Bank
1	18-05-2015	8,00,000.00	23-09-2016
2	10-12-2015	6,00,000.00	19-09-2016
3	25-08-2016	42,05,020.00	19-09-2016
4	21-06-2017	23,06,700.00	26-07-2017
	Total	79,11,720.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from five days to one year three months and six days approximately, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial number 1, 2 and 4 in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.2792/22.10.403/2017-18 dated January 23, 2018, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representative, Mr. Ramesh Bolar, Director and Mr. Rajesh Rao, Lawyer, who appeared for the personal hearing on January 25, 2018, admitted the contraventions as stated in Paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay 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 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards subscription to equity, as detailed in paragraph 2 above. The contravention relates to an amount of **Rs.79,11,730.00**, and the period of delay ranges from one month and one day to one year ten months and twenty two days approximately; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPR to the Reserve Bank, after issue of shares, to persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.37,06,700.00**, and the period of delay ranging from five days to one year three months and six days approximately.

6. It has been declared in the compounding application dated December 14, 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 30, 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.

7. 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.31,470.00 (Rupees Thirty One Thousand Four Hundred and Seventy only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) 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.31,470.00 (Rupees Thirty One Thousand Four Hundred and Seventy 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 Sixth day of February, 2018.

Sd/-

(Anup Kumar)
General Manager