



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri J. K. Pandey
Chief General Manager

Date: April 13, 2018

C.A. No. 731/2017

In the matter of

Tangerine Developers Private Limited
Union Co-operative Insurance Building
23, Sir P. M. Road
Fort, Mumbai- 400 001

(Applicant)

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

Order

1. The applicant has filed the compounding application dated November 27, 2017 (received at the Reserve Bank of India on December 12, 2017) 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 neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of the inward remittance in terms of paragraphs 8, 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 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 company was incorporated on December 11, 2006 under the Companies Act, 1956 as Tangerine Developers Private Limited. Its main activities are 1. To carry on business in or outside India for land purchase and sale, land development, construction works and that of builders, developers, contractors or all kinds of works viz. Roads, bridge, buildings industrial/residential/commercial or other factories, factory shades, industrial complexes, construct, erect, build, repair, remodel, demolish, develop, improve, grades, curve, pave, macadamize, cement and maintain building structures, houses, apartments, hospitals, clubs, holiday resorts, schools, places of worships, highways, roads, paths, streets, sideways, courts, alleys, pavements and to do other similar constructions, levelling of paving work, and for these purposes to purchase, take on lease, or otherwise acquire and hold any lands and prepare layout thereon or building of any tenure or buildings of any tenure or description wherever situated, or rights or interests therein or connected therewith works of all types, land developments and/or of soil investigation and contractor of Central public works department, state public works department, other government bodies or semi – Government bodies or civil bodies. 2. To carry on the business of builders and general construction contractors and own, sell, acquire, process, develop, construct, demolish, enlarge, rebuild, renovate, decorate, repair, maintain, let out, hire, lease, rent, pledge, mortgage or otherwise deal in construction of all description like land, building, flats, shops, commercial, educational and non-commercial complex, houses and immovable properties of any tenure and any interest therein, hotels, cinema houses, auditoriums, gallery, club houses, roads, body building, airports, tower platforms, highways, tunnels, pipelines, hospitals, nursing homes, clinics, godowns, warehouses, factories, colleges, schools, townships, freeholds and lease holds grounds and land developing properties in general and to purchase, take on lease, acquire in exchange or otherwise own, hold, occupy, manage, control, construct, erect, alter, develop, pull down improve, repair improve, renovate, work, build, plan,



layout, sell, transfer, mortgage, charge, assign, let out, hire, sub-let, sub-lease all types of lands, plots, buildings, bungalows, quarters, offices, flats, chawls, slums warehouses, godowns, shops, stalls, market, houses, structure undertakings, constructions tenements , roads, bridges, forests, estates, assets and properties, movable or immovable freehold or leasehold of whatever nature and description and where situate.

3. The applicant received inward remittances amounting to Rs.22,25,00,000/- (Rupees Twenty Two Crore Twenty Five Lakh only) as detailed below,

| Date of Remittance | Amount in INR | Date of approach for refund approval | Date of refund |
|---------------------------|----------------------|---|-----------------------|
| 14/12/2006 | 12,00,00,000 | 27/12/2012 | 23/09/2013 |
| 14/12/2006 | 10,25,00,000 | 06/03/2017 | 24/08/2017 |
| Total | 22,25,00,000 | | |

The company refunded share application money with delay ranging from 4 years 7 months 1 day to 8 years 9 months 9 days, approximately. In light of A. P. Dir Circular No. 20 dated December 14, 2007, with effect from November 29, 2007 and in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares 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, provided 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. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of security by A person resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007, in the official Gazette of the Government of India.



6. The applicant was given an opportunity for personal hearing vide e-mail dated April 4, 2018, for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on April 6, 2018, during which Ms. Sunita Manwani, CFO, IIML and Shri K. C. Gandhi, Chartered Accountant represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representative(s) of the applicant requested that in view of the foregoing a lenient view may be taken 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.

7. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application nor refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.22,25,00,000/- (Rupees Twenty Two Crore Twenty Five Lakh only) with a delay ranging from 4 years 7 months 1 day to 8 years 9 months 9 days, approximately.

8. It has been declared in the compounding application dated November 27, 2017 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 dated April 6, 2018, 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.

9. 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.20,98,125/- (Rupees Twenty Lakh Ninety Eight Thousand One Hundred Twenty Five Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.20,98,125/- (Rupees Twenty Lakh Ninety Eight Thousand One Hundred Twenty Five Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai 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.

11. The above order is passed only in respect of contraventions of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB and does not restrict the right of



FED, MRO
Tangerine Developers Private Limited
MUM 731

any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: April 13, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)
Chief General Manager