



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Shekhar Bhatnagar
Chief General Manager

Date: April 24, 2018
CA No 4573 / 2017

In the matter of

Jindal Futures Private Limited
110, Babar Road
New Delhi – 110001

(Applicant)

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

Order

The applicant has filed the application dated November 17, 2017 (received in the Reserve Bank on November 20, 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 filing Form ODI and undertaking ODI transactions without the allotment of UIN (Unique Identification Number) and (ii) undertaking overseas investment without earning a net profit during preceding three financial years from financial services activities. The above amount to the contravention of Regulations 6(2)(vi) and 7(i) of Foreign Exchange



Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant company was incorporated as Jindal Futures Private Limited on March 28, 2012 (CIN: U51900HR2012PTC045499;). It is engaged in carrying on the business of brokers in shares, stocks, debentures, currency futures, bonds etc.

On December 15, 2016, the applicant set-up a wholly owned subsidiary (WOS), namely Jindal IFSC Private Limited, in International Finances Services Centre (IFSC), GIFT City, Gujarat. On 18.01.2017, the applicant transferred USD 1,60,000 (INR 1,08,74,400) to the WOS, without submitting the Form ODI- Part I within the designated time period, and when the Indian party had not earned net profit during the preceding three financial years from the financial services activities. The above was thus in contravention of Regulations 6(2)(vi) and 7(i) of Notification No. FEMA 120/2004-RB.

The post-facto approval was granted and UIN was allotted on 04.10.2017.

3. In terms of Regulation 6(2)(vi) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, an Indian party is permitted to make Overseas Direct Investment in certain cases, provided "The Indian Party submits Part I of Form ODI, duly completed, to the designated branch of an authorized dealer".

Further, in terms of Regulation 7(i) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, "An Indian Party engaged in financial services sector in India may make investment in an entity outside India provided that the Indian Party has earned net profit during the preceding three financial years from the financial services activities."

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/8036/15.20.67/2016-17 dated March 26, 2018 for further submission in person and/or producing documents, if any, in support of the



application. The applicant sought to be exempted from the personal hearing with the Compounding Authority vide their e-mail dated April 19, 2018.

It has also been declared in the compounding application dated November 17, 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 subsequently declared in the declaration dated April 20, 2018, furnished as an addendum to 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 been 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 application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made thereafter.

5. I have given my careful consideration to the documents on record and submissions made by the applicant. It was observed that the applicant has contravened the provisions of Regulations 6(2)(vi), and 7(i) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time. The amount of contravention is Rs. 1,08,74,400/- and the period of contravention is ten months 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs.



2,08,744/- (Rupees two lakh eight thousand seven hundred and forty four only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 6(2)(vi) and 7(i) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 2,08,744/- (Rupees two lakh eight thousand seven hundred and forty four only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed accordingly.

Dated this the twenty fourth day of April, 2018

Sd/-

(Shekhar Bhatnagar)
Chief General Manager