



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: May 16, 2018
CA No 4654 / 2018

In the matter of

Bennett Broadcasting and Distribution Services Limited
10, Darya Ganj, New Delhi - 110002

(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 February 27, 2018 (received in the Reserve Bank on March 07, 2018), 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 non-repatriation of all dues receivable from foreign entity within the stipulated time period. The above amounts to the contravention of Regulation 15(ii) 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, Bennett Broadcasting and Distribution Services Limited, was incorporated on March 05, 2008 (CIN: U92100DL2008PLC263820). It is an Indian subsidiary of Times Internet Ltd., and is engaged in the business of acquiring, distributing, exploiting audio visual content such as programs, films, songs, clips etc.

The applicant company incorporated a WOS viz., Times Box TV Media Pte Ltd. on May 18, 2012. During the period June 30, 2015 to January 30, 2017, the applicant had receivables due from the WOS amounting to Rs. 6,23,53,909/-. Due to poor financial position on account of continuing operational losses incurred since inception and due to lack of business viability in the foreseeable future, the WOS intimated the applicant of its inability to pay the outstanding dues. The applicant thus filed an application with the RBI seeking its approval for disinvestment by way of liquidation, involving write-off of financial commitment and other dues. RBI issued a No-objection certificate for disinvestment by way of liquidation, dated July 21, 2017, subject to compounding of contravention of Regulation 15(ii) for dues outstanding beyond a period of 60 days.

3. In terms of Regulation 15(ii) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, an Indian Party, which has acquired foreign security in terms of the Regulations in Part I, shall, “repatriate to India, all dues receivable from the foreign entity, like dividend, royalty, technical fees etc., within 60 days of its falling due, or such further period as the Reserve Bank may permit....”.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/8814/15.20.67/2016-17 dated April 26, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on May 8, 2018 during which Shri Rajendra Singh, Senior Manager, Bennett Broadcasting and Distribution Services Limited, Shri Dev Raj Singh, Executive Director, Ernst and Young LLP



and Shri Girish Suvarna, Manager, Ernst and Young LLP, represented the applicants. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated February 27, 2018, 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 May 14, 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 during the personal hearing and thereafter.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 15(ii) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time. The amount of contravention is Rs. 6,23,53,909/- and the period of contravention is two years five 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. 4,24,123/- (Rupees four lakh twenty four thousand one hundred and twenty three 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, Regulation 15(ii) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 4,24,123/- (Rupees four lakh twenty four thousand one hundred and twenty three 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 sixteenth day of May, 2018

Sd/-

(Shekhar Bhatnagar)
Chief General Manager