



In the

RESERVE BANK OF INDIA

Foreign Exchange Department

5th floor, Amar Building

Fort, Mumbai - 400 001

Present

Meenakshi Ganju

Deputy General Manager

Date: July 9, 2018

C.A. 4673/2018

In the matter of

Pyramid Consulting Engineers Private Limited

Registered Office: 6th Floor, B-Wing, I-Think Techno Campus, Pokhran Road No. 2,

Off. Eastern Express Highway, Thane West-400 601, Maharashtra

(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 April 5, 2018 (received in the Reserve Bank of India on April 6, 2018) 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 relate to delayed return of share application money beyond 180 days from the date of remittance in contravention of Regulation 15(i) of FEMA 120/ RB-2004 dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).



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

2.1 The applicant, a resident Indian company was incorporated as Pyramid Consulting Engineers Private Limited on June 6, 2009 under the Companies Act, 1956. The applicant is engaged in the business of engineering consultancy etc. in India.

2.2. The applicant remitted USD 275,000 on August 17, 2007 towards investment in overseas joint venture viz. Pyramid Engineering and Consulting LLC in Oman. Due to business disagreement between the promoters the plan to open the JV could not materialize. The aforesaid amount of investment was returned to the applicant after deducting bank charges. The applicant received USD 224,956.74 on October 10, 2007 (within 6 months of initial investment) and USD 47,448.13 on September 22, 2008 (beyond 6 months of the initial investment). Non-receipt of share certificate within 6 months from the date of investment is not in line with Regulation 15(i) of FEMA 120.

3. The following are the observed contraventions:

Whereas Regulation 15(i) of FEMA 120/2004, states that an Indian Party, shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised.

4. The applicant was given an opportunity for personal hearing vide letter No.FE.CO.CEFA.No./10357/15.20.67/2017-18 dated June 15, 2018 for further submission in person and/or producing documents, if any, in support of the application. Shri Ankush Ughade (Senior Executive Finance, Employee Code 546) represented the applicant company during the personal hearing held on July 6, 2018. The representative of the applicant submitted that the contraventions on the part of the applicant company were unintentional and arose out of lack of knowledge about the legal requirements associated with the transaction which the applicant entered with an intention of expanding its business abroad. The representative of the applicant company also requested for a lenient view on the contraventions, in view of the fact that the promoters had approached the transaction only from a technical background and could not understand the 'legal complexities' of the matter and that the major portion of the amount remitted was received back within the prescribed period of 6 months. The application for compounding was considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.



5. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA120/2004-RB dated July 7, 2004: Regulation 15(i)-The amount of contravention in INR, as declared by the applicant is ₹21,49,875/- approximately and the period of contravention is taken as 10 years and 10 days from the date of such cash payment to the date of submission of compounding application.

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 contravention is to be compounded and I consider that payment of an amount of ₹1,10,000/- (Rupees One lakh and ten thousand only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contravention of the Regulations 3 of Notification No. FEMA 120/2004-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 ₹1,10,000 (Rupees One lakh and ten thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 day the ninth day of July 2018

Sd/-

(Meenakshi Ganju)

Deputy General Manager