



In the

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

Present

Ajay Kumar Misra
Chief General Manager

Date: August 28, 2018
CA No 4714 / 2018

In the matter of

Jetair Private Limited
Jetair House, 13 Community Centre
Yusuf Sarai
New Delhi - 110049

(Applicant)

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

Order

The applicant has filed the application dated May 25, 2018 (received in the Reserve Bank on May 25, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for the delay in reporting of downstream investment to the designated agencies within 30 days of such investment, in contravention of Regulation 14(6)(ii)(a) of 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 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant company was incorporated as Jet Air Transportation Private Limited on July 19, 1974 (CIN: U74899DL1974PTC007361). Its name was changed to Jetair Private Limited on July 04, 1985. The applicant company, owned and controlled by non-resident entities, is engaged in the business of acting as travel and tourist agents for every mode of travel by sea, air or land, and arranging for tourists and travelers, the provision of conveniences, reserve places, hotel and lodging accommodation etc.

The applicant company has not received any foreign direct investment (FDI). However, since it is a non-resident owned and controlled company, it is deemed to have received indirect FDI by virtue of its shareholding pattern. The applicant company made downstream investment in India to the extent of Rs. 4,81,00,000/- into M/s Jetair Tours Private Limited, in May 2015. This downstream investment made by the applicant company, on account of the aforesaid indirect FDI, was required to be reported to the (then) Secretariat of Industrial Assistance (SIA), Department of Industrial Policy and Promotion (DIPP) and the then Foreign Investment Promotion Board (FIPB) within 30 days of such investment as required by Regulation 14(6)(ii)(a) of Notification No. FEMA 20/2000-RB dated May 3, 2000. However, there was a delay in meeting the abovementioned reporting requirements, beyond the stipulated period of 30 days, resulting in a contravention of Regulation 14(6)(ii)(a) of Notification No. FEMA 20/2000-RB. The abovementioned reporting requirement has been subsequently completed on 18.05.2018.

3. According to Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, as then applicable, "Downstream investments by Indian companies will be subject to the following conditions: (a) such a company has to notify Secretariat for Industrial Assistance, DIPP and FIPB of its downstream investment in the form available at....within 30 days of such investment...".



4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/667/15.20.67/2018-19 dated August 01, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on August 27, 2018 during which Shri S.R. Mehta, Ms. Rajanni Kutty, Shri Khanjan Jasani and Ms. Vidya Samant, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated May 25, 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 also been declared in the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. 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.

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 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, as amended from time to time. The amount of contravention is Rs. 4,81,00,000/- and the period of contravention is 2 years 11 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. 1,55,833/- (Rupees one lakh fifty five thousand eight hundred and thirty 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 contravention committed by the applicant namely, Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, on payment of a sum of Rs. 1,55,833/- (Rupees one lakh fifty five thousand eight hundred and thirty 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 twenty eighth day of August, 2018

Sd/-

(Ajay Kumar Misra)
Chief General Manager