



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 13, 2018
CA No 4749 / 2018

In the matter of

Proserv India Oil and Gas Solutions LLP
302, FM House, Anna Salai
Teynampet, Chennai – 600096

(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 July 13, 2018 (received in the Reserve Bank on July 16, 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 delay in reporting the receipt of remittances in Form Foreign Direct Investment – LLP(I), beyond the stipulated time period of 30 days, in contravention of Regulation 5(9) read with para 7(i) of Schedule 9 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 is a Limited Liability Partnership (LLP) (LLPIN - AAH-4124), formed on November 28, 2017, with M/s Proserv Operations Limited and M/s Proserv UK limited (both the entities incorporated outside India) as partners.

The applicant has received foreign inward remittances as capital contributions from M/s Proserv Operations Limited, a company incorporated in the United Kingdom.

S.No.	Amount received (Rs.)	Date of receipt	Date of reporting to RBI
1	1,02,00,000	30.01.2017	09.04.2018
2	1,02,00,000	12.04.2017	09.04.2018
3	41,36,700	04.05.2018	07.06.2018

Delay in reporting of receipt of FDI by an LLP in Form LLP(I) was in contravention of Regulation 5(9) read with para 7(1) of Schedule 9 of Notification No. FEMA 20/2000-RB. Administrative action of submission Form Foreign Direct Investment – LLP(I) with RBI has now been complied with.

3. Regulation 5(9) of Notification No. FEMA 20/2000-RB states that, “A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India, (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition/ transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.”

Further, Paragraph 7(i) of Schedule 9 of the abovementioned regulations specifies a time period of 30 days from the date of receipt of the amount of



consideration, within which the LLP shall submit a report in Form Foreign Direct Investment – LLP(I) to the Reserve Bank of India.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/671/15.20.67/2018-19 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 10, 2018 during which Shri Jomesh Jose, Accountant, represented the applicant. The representative 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 July 13, 2018, that the particulars given by the applicant in the application are true and correct to the best of their 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 5(9) read with para 7(1) of Schedule 9 of Notification No. FEMA 20/2000-RB. The amount of contravention is Rs. 2,45,36,700/- and the period of contravention ranges from 4 days to 1 year 2 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. Rs. 1,10,583/- (Rupees one lakh ten thousand five hundred and eighty 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 5(9) read with para 7(1) of Schedule 9 of Notification No. FEMA 20/2000-RB , on payment of a sum of Rs. 1,10,583/- (Rupees one lakh ten thousand five hundred and eighty 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 thirteenth day of August, 2018

Sd/-

(Ajay Kumar Misra)
Chief General Manager