



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
6, Sansad Marg  
New Delhi-110001

Present  
**Md. Shakir Hasan**  
**Assistant General Manager**

Date: September 19, 2018  
C.A.NDL 302/2018

In the matter of

**Nightstay Travels Private Limited**  
Flat No. 301, House No. 3, Third Floor, Ashiana Apartment, Gabai Jamia Nagar,  
Okhla, New Delhi 110025

**(Applicant)**

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

**Order**

The applicant has filed the compounding application dated August 31, 2018 (received at Reserve Bank of India, New Delhi on September 4, 2018) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittances received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLAR), in terms of Paragraphs 9(1)(A), 9(1)(B) and 9(2) respectively of Schedule 1 to 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 3rd May, 2000 as amended from time to time (hereinafter referred to as FEMA 20/2000- RB).



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

- a) The applicant company was incorporated on March 16, 2015 and is engaged in the business of providing short stay accommodation viz. holiday homes, private guest houses, etc.
- b) The applicant had received three foreign inward remittances from November 11, 2016 to July 3, 2017 for issue of equity shares and reported them with delays ranging from 10 months and 13 days to 1 year, 6 months and 4 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

S. No.	Amount (in INR)	Date of receipt	Date of reporting	Period of Delay
1.	1,41,082.37	28.11.2016	15.06.2018	1 year, 5 months & 18 days
2.	2,49,607.00	11.11.2016	15.06.2018	1 year, 6 months & 4 days
3.	2,49,607.27	03.07.2017	15.06.2018	10 months & 13 days
<b>Total</b>	<b>6,40,296.64</b>			

Whereas, in terms of Paragraph 9(1) (A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration.

- c) The company allotted shares on two occasions against these remittances and reported them with delays ranging from 10 months and 17 days to 1 year, 5 months and 1 day (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.



Sr. No.	Date of allotment	No. of CCPS allotted	Amount (In INR)	Date of reporting of FC-GPR	Delay in reporting
1.	19.12.2016	396	390689.64	19.06.2018	1 year, 5 months & 1 day
2.	03.07.2017	253	249607.27	19.06.2018	10 months & 17 days
		649	<b>6,40,296.91</b>		

Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to a person resident outside India.

d ) The company has filed the Annual Return on Foreign Liabilities and Assets (FLAR) for the financial year 2016-2017 on August 2, 2018 , with a delay of 1 year and 14 days in contravention of Para 9 (2) of Schedule 1 to FEMA 20/2000-RB. Whereas, in terms of Paragraph 9(2) of Schedule 1 to FEMA 20/200-RB, all companies which have received FDI in the previous year(s) including the current year, should submit Form FLA to the Reserve Bank on or before the 15th day of July of each year.

e) Thus, there are contraventions of Paragraphs 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 to FEMA Notification No. 20 /2000-RB dated May 3, 2000, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/or by producing documents, if any, in support of the application. Shri Nasr Ullah Khan, Director and S/Shri Rahul Sangal and Parth Gupta, both Consultants appeared for personal hearing on September 17, 2018 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that delays were without any *malafide* or wilful intention but were mainly due to oversight. They requested for a lenient view in the



matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/200-RB, due to delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹6,40,296.64 (Rupees Six Lakh Forty Thousand Two Hundred Ninety Six and Paise Sixty Four only) and the period of delay ranges from 10 months and 13 days to 1 year, 6 months and 4 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/200-RB, due to delay in filing of Form FC-GPRS to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹6,40,296.91 (Rupees Six Lakh Forty Thousand Two Hundred Ninety Six and Paise Ninety One only) and the period of delay ranges from 10 months and 17 days to 1 year 5 months and 1 day.

(c) Paragraph 9(2) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of the Annual Return on Foreign Liabilities and Assets (FLAR) for the financial year 2016-2017 with a delay of 1 year and 14 days.

5. It has been declared in the compounding application dated August 31, 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 been declared in the undertaking dated September 6, 2018 furnished by Director of the company 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 informed of initiation of any such enquiry/investigation/ adjudication proceedings against it, 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.

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 contraventions are to be compounded and I consider that an amount of **₹36420/- (Rupees Thirty Six Thousand Four Hundred Twenty only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of paragraph 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 to FEMA 20/2000- RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹36420/- (Rupees Thirty Six Thousand Four Hundred Twenty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi-110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 19<sup>th</sup> day of September 2018.

Sd/-

(Md. Shakir Hasan)  
Assistant General Manager