



In the

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

Present

R K Moolchandani
Chief General Manager

Date: October 19, 2018
CA No 4716 / 2018

In the matter of

Innovations Investment Management India Private Limited
58, 15th Cross, 9th Main, 2nd Phase, J P Nagar, Bangalore - 560 078,
Karnataka

(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 31, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant company has sought to be compounded for (i) delay in receipt of share certificate beyond the stipulated time period, (ii) delay in reporting of Annual Performance Reports (APRs) beyond the stipulated time period and (iii) delay in filing of annual return on Foreign Liabilities and Assets (FLA) beyond the stipulated time period in



respect of the overseas Joint Venture Company, in contravention of Regulations 15(i), 15(iii) and 15(iv) 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, namely, Innovations Investment Management India Private Limited, was incorporated in India on January 4, 2006 (CIN: U67120KA2006PTC038152). It is engaged in the business of asset management, providing management and technical consultancy services, etc.

The applicant company made an overseas direct investment (ODI) of USD 500,000 on October 8, 2012 in an overseas Joint Venture (JV) viz., Trendseeder Corp in USA but received share certificates for the above mentioned ODI with a delay beyond the stipulated time period, only on June 28, 2016, in contravention of Regulation 15(i) of Notification No.FEMA.120/2004-RB.

Further, the applicant company reported APRs for the years 2013 to 2015 with a delay beyond the stipulated time period, the details regarding which are as under:

APR for the year ending	Date of submission of APRs
2013	June 28, 2016
2014	June 30, 2016
2015	June 30, 2016

The above was in contravention of Regulation 15(iii) of Notification No.FEMA.120/2004-RB.

Also, the applicant company submitted annual return on FLA for the period 2013 to 2015 to the Reserve Bank with a delay beyond the stipulated time period, only on August 31, 2017, in contravention of Regulation 15(iv) of Notification No.FEMA.120/2004-RB.



3. (a) In terms of Regulation 15(i) of Notification No.FEMA.120/2004-RB, an Indian Party, which has acquired foreign security in terms of the Regulations in Part I, 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....".

(b) In terms of Regulation 15(iii) of Notification No.FEMA.120/2004-RB, an Indian Party, which has acquired foreign security in terms of the Regulations in Part I, shall, "submit to the Reserve Bank every year within 60 days from the date of expiry of the statutory period as prescribed by the respective laws of the host country for finalisation of the audited accounts of the Joint Venture/Wholly Owned Subsidiary outside India or such further period as may be allowed by Reserve Bank, an annual performance report in form APR ...".

(c) In terms of Regulation 15(iv) of Notification No.FEMA.120/2004-RB, an Indian Party, which has acquired foreign security in terms of the Regulations in Part I, shall, " submit to the Reserve Bank every year a return on Foreign Liabilities and Assets (FLA) directly by all the Indian companies which have received FDI and/or made FDI abroad (i.e. overseas investment) in the previous year(s) including the current year, to the Director, External Liabilities and Assets Statistics Division, Department of Statistics and Information Management (DSIM), Reserve Bank of India...".

4. The applicant was given an opportunity for personal hearing vide letter FED.CO.CEFA.No./1269/15.20.67/2018-19 dated August 31, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on September 6, 2018 during which Ms. C R Chandrakala, Senior Manager- Business Finance and Shri Rajendra Rao, Chartered Accountant, Rajendra Rao & Associates, represented the applicant. The representatives of the applicant admitted the contraventions for which compounding had been sought. They submitted that the contraventions were inadvertent and unintentional 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 been declared in the declaration submitted alongwith 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 Regulations 15(i), 15(iii) and 15(iv) of Notification No.FEMA.120/2004-RB. The amounts and periods of contravention are as under:

(i) Regulation 15(i): Amount of contravention - Rs. 2,62,60,000/- and the period of contravention is three years three months approximately.

(ii) Regulation 15(iii) and Regulation 15(iv): As indicated in Paragraph 2 above.

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 1,00,000/- (Rupees one lakh 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, Regulations 15(i), 15(iii) and 15(iv) of Notification No.FEMA.120/2004-RB, on payment of a sum of Rs. 1,00,000/- (Rupees one lakh 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 nineteenth day of October, 2018

Sd/-

(R K Moolchandani)
Chief General Manager