



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri P J Thomas
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: November 05, 2018
C.A. BGL 301/2018

In the matter of

M/s Individual Learning Private Limited
Terrace of Flat No.301, Prestige Four Seasons
Brunton Road, Off M G Road
Bengaluru - 575011
(Applicant)

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

ORDER

The applicant has filed a compounding application dated June 11, 2018, received at this office of Reserve Bank of India, Bengaluru on June 11, 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 are, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in refund of excess share application money, and (iii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 and 9(1)(B), respectively, of Schedule I 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 May 03, 2000, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).



2. The relevant facts of the case are as follows: The applicant, M/s Individual learning Private Limited, was incorporated on August 28, 2012, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Chandigarh. Subsequently, the company has shifted their registered office from the State of Chandigarh to the State of Karnataka, with effect from October 31, 2017, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of information technology services in the field of education. The applicant had received funds towards share application money from the foreign investors, namely, M/s East River Advisors LLC, USA, M/s Jeremy Wenokur TTEE Jeremy Wenokur Living Trust, USA, Mr. Philip R Freise, UK, M/s Best Pearl Holding Limited, UK, M/s Spruce Street Investments, Mauritius, M/s Kalaari Capital Partners II LLC, Mauritius, M/s Lightbox Ventures II, Mauritius, and M/s Lightbox Expansion Fund, Mauritius, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	08-11-2012	26,05,815.00	16-08-2013
2	13-12-2012	29,44,185.00	16-08-2013
3	24-12-2012	55,50,000.00	16-08-2013
4	04-12-2012	27,30,450.00	16-08-2013
5	07-12-2012	53,500.00	16-08-2013
6	16-12-2012	27,75,000.00	16-08-2013
7	07-01-2013	55,50,000.00	16-08-2013
8	07-10-2013	5,67,572.00	27-12-2013
9	11-10-2013	2,85,628.97	27-12-2013
10	02-11-2013	11,53,846.15	21-03-2014
11	13-12-2013	2,91,294.00	21-03-2014
12	09-12-2013	11,53,846.15	21-03-2014
13	06-03-2014	1250,40,000.00	02-04-2014



14	10-03-2014	1205,39,517.84	02-04-2014
15	01-02-2016	337,00,000.00	18-02-2016
16	01-02-2016	337,00,000.00	15-12-2016
17	16-08-2016	997,49,002.50	30-08-2016
18	21-03-2017	438,97,720.50	12-04-2017
19	21-03-2017	539,77,279.50	13-04-2017
	Total	53,62,64,657.61	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from one month and seventeen days to nine months and thirteen days, beyond the stipulated period of 30 days, in respect of the remittances as indicated at serial numbers 1 to 12, and 16 in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations, should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days, from the date of receipt of the amount of consideration.

3. The company had received inward remittances of ₹ 27,30,450.00, and ₹ 53,500.00, amounting to ₹ 27,83,950.00, from the non-resident investor Mr.Philipp R Freise, UK, on December 04, 2012, and December 07, 2012, respectively. The company had allotted 40,000 CCPS worth ₹ 27,75,000, and out of excess share application money of ₹ 8,950.00, the company has refunded ₹ 8350.00, on February 24, 2014, to the non-resident investor, without prior approval of Reserve Bank of India. The amount of contravention is ₹ 8350.00, and the period of delay is eight months and nineteen days. Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB, dated May 3, 2000, read with A.P. (DIR Series) Circular No. 20 dated December 14, 2007, the excess amount need to be refunded within 180 days from the date of receipt of inward remittance.



4. The applicant company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of CCPS/equity shares allotted	Amount involved (INR)	Date of reporting to RBI/AD
1	18-01-2013	320000 CCPS	222,00,000.00	16-08-2013
2	13-02-2014	25212 CCPS	34,52,027.04	24-05-2017
3	21-03-2014	200 equity shares & 1392238 CCPS	2455,79,311.99	23-06-2014
4	01-02-2016	239728 CCPS	674,00,006.66	20-03-2016
5	03-10-2016	261522 CCPS	997,48,936.67	24-10-2016
6	31-03-2017	261522 CCPS	978,74,608.50	25-05-2017
	Total		53,62,54,890.86	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from eighteen days to three years two months and nine days, beyond the prescribed period of 30 days, in respect of the allotments indicated at serial numbers 1 to 4, and 6 in Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1291/22.10.935/2018-19 dated November 02, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Ms. Juhi Pant, Company Secretary, Mr. Aditya Kumar, Chartered Accountant, and Mr. Nikunj Karia, Senior VP & Growth, who appeared for the personal hearing on November 05, 2018, admitted the contraventions as stated in paragraphs 2,



3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

6. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of ₹ **5,93,61,137.27**, and the period of delay ranges from one month and seventeen days to nine months and thirteen days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to refund of excess share application money beyond 180 days from the date of receipt of inward remittances, without prior approval from Reserve Bank of India as detailed in paragraph 3 above. The total amount of contravention is ₹ **8,350.00**, and the period of delay is eight months and nineteen days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to persons resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of ₹ **43,65,05,954.19**, and the period of delay ranges from eighteen days to three years two months and nine days.



7. It has been declared in the compounding application dated June 11, 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, furnished 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 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.

8. 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 **₹ 1,45,960.00 (Rupees One Lakh Forty Five Thousand Nine Hundred and Sixty only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-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 **₹ 1,45,960.00 (Rupees One Lakh Forty Five Thousand Nine Hundred and Sixty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru 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 of accordingly.

Dated this, the Fifth day of November, 2018.

Sd/-

(P J Thomas)
Regional Director, Karnataka and
Chief General Manager, Bengaluru