



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri J. K. Pandey
Chief General Manager

Date: November 14, 2018

C.A. No. 791/2018

In the matter of

Benjamin West India Private Limited
320, Udyog Mandir 1, Bhagoji Keer Marg,
Mahim West, Mumbai – 400 016
(Applicant)

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

Order

1. The applicant has filed the compounding application dated August 25, 2018 (received at the Reserve Bank of India on August 30, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India (iii) delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns), 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 May 3, 2000 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 company was incorporated on June 25, 2012, under the Companies Act, 1956, as Benjamin West India Private Limited. Its main activities i) to carry on business as purchasing agents for procurement of furniture, fixture and equipment including both public space/guestrooms carpets, carpet pad, wall coverings, window treatments, bedding, fabrics, beds, case goods, sofas, desk, chairs/barstools, ceiling light/chandelier, floor/desk/table lamp, wall sconces, framed picture/print, art object such as sculpture, tables and mirrors. ii) To carry on business of procurement of operating supplies & equipment items including in both public space/guestrooms TV, mini bar refrigerator, clock radio, safe, coffee pot/kettle linens: blanket/pillow, duvet, bed sheet, throws, towel, bathrobe, bed scarf amenities: soap/lotion, mini bar items, hangers, slippers, trash bin, food and beverage tableware, silverware, banquet supplies, banquet/dining tables & chairs, buffet supplies, housekeeping maid carts, cleaning accessories, luggage carts engineering hardware tools, flash light, walkie-talkie, back office furniture, chair, carpet kitchen equipment, electrical accessories, linen and utensils.

3. The applicant received foreign inward remittances from BW Hong Kong Inc, United States of America, towards equity / compulsorily convertible preference share / compulsorily convertible debentures and reported the same to the Reserve Bank of India as indicated in the table.

Sr. No.	Amount received in INR	Date of receipt	Date of reporting	Delay
1	9,99,997.00	08-08-2012	04-09-2012	No
2	20,15,000.00	25-02-2013	22-04-2013	26D
3	18,44,642.00	04-08-2014	08-09-2014	5D
4	30,09,000.00	08-03-2016	16-06-2016	2M 9D
5	30,02,419.75	18-04-2017	12-05-2017	No
Total	1,08,71,058.75			



The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 05 Day to 02 Months 09 Days, approximately, in respect of remittances listed at serial no. 02 to 04 as indicated in the table. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares / compulsorily convertible preference share / compulsorily convertible debentures in accordance with these Regulations should report foreign inward remittances 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.

4. The company allotted equity shares / compulsorily convertible preference share / compulsorily convertible debentures and filed FC-GPR as indicated below:

Sr. No.	No. of shares	FV in INR	Premium in INR	Amount involved in INR	Date of allotment	Date of filing	Delay
1	100000	10	0	10,00,000.00	28-08-2012	24-10-2013	1Y 27D
2	201500	10	0	20,15,000.00	16-03-2013	14-05-2013	29D
3	30744	10	50	18,44,640.00	25-09-2014	04-02-2015	3M 11D
4	50150	10	50	30,09,000.00	04-04-2016	27-05-2017	1Y 23 D
5	50040	10	50	30,02,400.00	16-05-2017	11-07-2017	26D
			Total	1,08,71,040.00			

The applicant filed form FC-GPR as indicated at serial No. 01 to 05 above with a delay ranging from 26 Days to 01 Year 27 Days approximately. Whereas, in terms of Paragraph 9(1) (B) of Schedule 1 to Notification No. 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 person resident outside India.

5. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Year 2012-13 on or before July 15. Whereas, in terms of Paragraph 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the



previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15th day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

6. The applicant was given an opportunity for personal hearing vide e-mail dated October 30, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on October 31, 2018, during which Shri Dilmeet Singh Sahni, CA Firm Consultant, represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representative of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

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

(a) Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.68,68,642.00 (Rupees Sixty- Eight Lakh Sixty-Eight Thousand Six Hundred Forty-Two Only) and the delay ranging from 05 Days to 02 Months 09 Days, approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.1,08,71,040.00 (Rupees One Crore Eight



Lakh Seventy-One Thousand Forty Only) and the delay ranging from 26 Days to 01 Year 27 Days, approximately.

(c) Paragraph 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to delayed filing of Annual Return on Foreign Liabilities and Assets (FLA) for the Financial Year 2012-13.

8. It has been declared in the compounding application dated August 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 further been stated in the declaration dated August 25, 2018, 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/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.

9. 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 Rs.36,030/- (Rupees Thirty Six Thousand Thirty Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1) (A), 9(1) (B) and 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed



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Benjamin West India Private Limited
C.A. No. MUM791/2018

above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.36,030/- (Rupees Thirty Six Thousand Thirty Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.

11. The above order is passed only in respect of contraventions of para 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: November 14, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)

Chief General Manager