



In the

**Reserve Bank of India**  
Foreign Exchange Department  
5<sup>th</sup> floor, Amar Building  
Fort, Mumbai - 400 001.

Present

Mitali Gupta Shaikh  
**Deputy General Manager**

Date: February 2, 2017

**CA No. 4160/2016**

In the matter of

**Britomatics (India) Pvt. Ltd.**  
102 LGF, Maharani Plaza, Ashram Chowk, New Delhi 110014

**(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 there under, I pass the following

**Order**

The applicant has filed a compounding application dated September 20, 2016 (received at the Reserve Bank on September 26, 2016) seeking compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded pertains to non-receipt of Share Certificate and repatriation of share application funds beyond stipulated period of six months, in contravention of Regulation 15(i) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000 notified vide Notification No. **FEMA 120 /2004-RB** dated July 7, 2004 and as amended from time to time (hereinafter referred to as Notification No. FEMA 120 /2004-RB).



2. The relevant facts of the case are as follows: The applicant, M/s Britomatics (India) Pvt. Ltd. was incorporated as a private limited company on November 14, 1995, and is engaged in the business of trading of printing machinery.

3. The applicant company remitted USD 50,000 to its wholly owned subsidiary 'Creative Global Pte Ltd.', Singapore on January 22, 2015 for investing in equity capital of the company. Due to some administrative/ technical problems the WOS could not be formed and no shares were allotted. The share application money was refunded but the same was repatriated to India on March 23, 2016 i.e beyond stipulated period of six months, thus contravening Regulation 15 (i) of FEMA 120/ 2004-RB dated July 7, 2004.

UIN no. NDWAZ20150239 was allotted for the WOS by RBI vide letter dated April 30, 2015. The transaction was regularized on August 19, 2016.

4. In terms of Regulation 15(i) of FEMA 120/ 2004-RB ' An Indian Party, which has acquired foreign security 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**, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised'. Whereas, the applicant company did not receive the share certificates towards the investment overseas and the funds were repatriated after the stipulated period of six months in contravention of Regulation 15 (i) of FEMA 120/ 2004-RB dated July 7, 2004.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. FE.CO.CEFA/6596/15.20.67/2016-17 dated January 4, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for personal hearing on January 31, 2017,



during which Mr. Arjun Dev, Managing Director and Mr. Sumit Dev, Director were present. During the personal hearing, the applicant admitted the contravention committed for which they have sought compounding. They stated that the contraventions committed and the delay in repatriation of the investment funds was due to not being aware of the extant FEMA guidelines and without any malafide intention. The applicant requested that in view of the foregoing, a lenient view may be taken in disposal of the application.

6. 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.

7. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened Regulation 15(i) of Notification No. **FEMA 120/2004-RB**. The contravention relates to an amount of Rs. 31,18,500/- approximately.

8. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty upto 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 contravention is to be compounded and I consider that an amount of **Rs. 65,000/- (Rupees Sixty-five thousand only)** will meet the ends of justice.

9. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contraventions committed by the applicant namely, Regulation 15(i) of Notification No. **FEMA 120/2004-RB** on the facts discussed above, on payment of an amount of Rs. 65,000/- (Rupees Sixty-five thousand only) which shall be deposited by the applicant with the Reserve Bank of



India, Foreign Exchange Department, 5<sup>th</sup> 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 of accordingly.

Dated this the second day of February, 2017.

Sd/-

Mitali Gupta Shaikh  
**Deputy General Manager**