



In the

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

Present

**Sh. Rohit Jain**  
**Chief General Manager**

Date: March 30, 2017  
C.A.NDL 235/2016

In the matter of

**Bashkent (India) Education Private Limited**  
**(formerly Bashkent (India) Impex Pvt. Ltd.)**  
7/C Taimoor Nagar, New Delhi 110065

**(Applicant)**

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

**Order**

The applicant has filed a compounding application dated November 12, 2016 (received at Reserve Bank of India on 19.12.2016) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)(A) 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) (ii) delay in submission of form FC-GPR for allotment of shares in terms of Paragraph 9(1) (B) of Schedule 1 to FEMA 20/2000-RB and (iii) delay in issue of shares to person resident outside India beyond the prescribed period of 180 days, in terms of Paragraph 8 of Schedule 1 to FEMA



20/2000-RB read with paragraph 5 of AP (DIR Series) Circular No. 20 dated December 14, 2007.

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

a) The applicant company was incorporated under the Companies Act, 1956 on May 6, 1998 and allotted registration No. U51909DL1998PTC093670 by Registrar of companies. The applicant company is engaged in providing education services.

b) The company had received 19 foreign inward remittances from March 13, 2002 to August 23, 2013 for issue of shares, out of which, 14 remittances amounting to Rs.1,39,06,724.65 were reported with a delay ranging from 1 year 3 months and 25 days to 13 years 3 months and 11 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:

<b>Contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB</b>			
<b>S.No.</b>	<b>Date of Receipt</b>	<b>Amount (Rs.)</b>	<b>Date of Reporting to RBI</b>
1	13.03.2002	1,00,588.80	23.07.2015
2	13.03.2002	1,16,064.00	23.07.2015
3	06.09.2002	7,22,400.00	23.07.2015
4	11.09.2003	2,26,850.00	23.07.2015
5	20.10.2003	2,25,200.00	23.07.2015
6	08.04.2005	18,55,921.35	23.07.2015
7	19.04.2005	14,67,679.50	23.07.2015
8	19.04.2005	13,38,049.50	23.07.2015
9	19.04.2005	10,78,789.50	23.07.2015
10	19.04.2005	17,26,939.50	23.07.2015
11	19.04.2005	9,49,159.50	23.07.2015
12	20.06.2005	14,20,791.50	23.07.2015
13	20.06.2005	13,34,591.50	23.07.2015
14	26.03.2010	13,43,700.00	19.08.2011
		<b>1,39,06,724.65</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, receipt of amount of consideration towards share subscription not later than 30 days from the date of receipt of the said amount.

c) The company had allotted equity shares on 9 occasions, out of which, on 6 occasions, the company had reported the allotments aggregating Rs. 1,39,00,050.00 in form FC-GPR with a delay ranging from 10 months and 4 days to 13 years 2 months and 20 days (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

<b>Contravention of Para 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB</b>				
<b>S.No.</b>	<b>Date of Allotment</b>	<b>No. of Shares Allotted</b>	<b>Amount (Rs.)</b>	<b>Date of Reporting to RBI</b>
1	03.04.2002	21000	2,10,000.00	23.07.2015
2	11.09.2002	72240	7,22,400.00	23.07.2015
3	19.09.2003	22685	2,26,850.00	23.07.2015
4	31.10.2003	22520	2,25,200.00	23.07.2015
5	27.10.2008	1117190	1,11,71,900.00	23.07.2015
6	15.09.2010	134370	13,43,700.00	19.08.2011
			<b>1,39,00,050.00</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 person resident outside India.

d) Further, the company had received 8 remittances amounting to Rs. 1,11,71,921.85 during the period 03.11.2005 to 04.07.2007 and had issued shares against these remittances with a delay ranging from 9 months and 26 days to 10 months 29 days (as detailed hereunder), beyond the prescribed period in contravention of paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000-RB dated May 3,2000 read with paragraph 5 of A.P (DIR Series) circular No. 20 dated December 14, 2007.



<b>Contravention of Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB</b>			
<b>S No</b>	<b>Date of Receipt of Remittance</b>	<b>Amount (Rs.)</b>	<b>Date of allotment of shares</b>
1	03.11.2005 *	18,55,921.35	27.10.2008
2	05.12.2005 *	14,67,679.50	27.10.2008
3	07.04.2006 *	13,38,049.50	27.10.2008
4	08.07.2006 *	10,78,789.50	27.10.2008
5	04.09.2006 *	17,26,939.50	27.10.2008
6	15.12.2006 *	9,49,159.50	27.10.2008
7	23.03.2007 *	14,20,791.50	27.10.2008
8	04.07.2007	13,34,591.50	27.10.2008
		<b>1,11,71,921.85</b>	

( \* Cut off date taken as 28.11.2007)

Whereas, in terms of paragraph 5 of A.P (DIR Series) Circular No. 20 dated 14.12.2007 in all cases where, as on November 28, 2007, 180 days have elapsed since the receipt of funds and equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank of India, through their AD category-I bank, with a definite action plan, either for allotment of equity instruments or for refund of the advance, with full details, for specific approval. In terms of Paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000 RB, equity instruments should be issued within 180 days of the receipt of the inward remittances or date of debit to the NRE/FCNR (B) account as the case may be.

Thus, there are contraventions of Paragraph 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB read with paragraph 5 of A.P (DIR Series) Circular No. 20 dated 14.12.2007.

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. The personal hearing took place on March 28, 2017 during which Ms. Umeet Kaur, Company Secretary in practice and Sh. Neeraj Sharma, Accounts Executive of the company appeared on behalf of the company. They admitted the contraventions



committed by them for which they have sought compounding. They stated that the Directors being non-residents were not well versed with FEMA regulations. They further added that there had been no unfair gains to any party due to the above contraventions. In view of the above, the representatives requested for a lenient view in the matter.

The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as submissions made in this context by the applicant 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 20/2000-RB due to delay in reporting the inflow of funds from a person resident outside India. The contravention relates to an amount of Rs.1,39,06,724.65 and the duration of contravention is ranging from 1 year 3 months and 25 days to 13 years 3 months and 11 days beyond the prescribed period of 30 days.
- (b) Paragraph 9 (1) (B) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of form FCGPR with RBI. The contravention relates to an amount of Rs1,39,00,050.00 and the duration of contravention is ranging from 10 months and 4 days to 13 years 2 months and 20 days beyond the prescribed period of 30 days.
- (c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB due to delay in issue of shares to foreign investor. The contravention relates to an amount of Rs1,11,71,921.85 and the duration of contravention is ranging from 9 months and 26 days to 10 months 29 days beyond the prescribed period of 180 days

5. 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.7,39,945/- (Rupees Seven lakh thirty nine thousand nine hundred forty five only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions under Paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to 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 **Rs 7,39,945/- (Rupees Seven lakh thirty nine thousand nine hundred forty five 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 of accordingly.

Dated this the 30th day of March, 2017.

Sd/-

**(Rohit Jain)**  
**Chief General Manager**