



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

Present

Anup Kumar
General Manager

Date: March 23, 2017
C.A. BGL199/2016

In the matter of

M/s. Smartpools (International) Pvt. Ltd.
Smartpools House, 35/5, Sathnur Road,
Next to Country Club, Yelahanka,
Bengaluru - 560063
(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 January 16, 2017 (received in Reserve Bank of India, Bengaluru on January 18, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in reporting receipt of foreign inward remittances towards subscription to equity in terms of paragraph 9(1) (A) 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. Smartpools (International) Pvt. Ltd., was incorporated on April 28, 2010, under the Companies Act, 1956. The activity undertaken by the company is "To carry on the business of designing, manufacture, construction, Installation and Commissioning, running, operating, offering, consultancy services and



maintenance of swimming pools, etc.” The applicant had received funds towards share application money from one foreign investor viz., M/s Ascenteus Holdings SDN BHD, Malaysia., as shown below:

Sl. No	Date of Receipt	Total Amount	Date of Reporting
1	22-12-2010	14,02,662.35	01-08-2011
2	11-01-2011	14,30,761.93	01-08-2011
3	22-02-2011	14,34,782.46	01-08-2011
	Total	42,68,206.74	

The applicant reported receipt of remittances to the Authorized Dealer Bank with a delay ranges from 4 months 8 days to 6 months 11 days approximately, beyond the stipulated time of 30 days in respect of all remittances indicated 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 applicant was given an opportunity for personal hearing, vide the Reserve Bank’s letter No. FE.BG.FID (CEFA) No. 5561/22.07.919/2016-17 dated March 10, 2017, for further submission in person and/or producing documents, if any, in support of the application. The applicant however did not appear for the personal hearing on March 15, 2017.

4. I have given my careful consideration to the documents on record (read with para 8.3 of Master Direction No.4/2015-16 dated January 1, 2016 (updated as on May 26, 2016) on Compounding of Contraventions under FEMA, 1999). 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 **Rs. 42,68,206.74** and the period of delay ranges from 4 months 8 days to 6 months 11 days approximately.

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 contravention are to be compounded and I consider that an amount of **Rs. 13,800/- (Rupees Thirteen Thousand Eight Hundred only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contravention namely, contraventions of Paragraph 9(1) (A) 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 **Rs. 13,800/- (Rupees Thirteen Thousand Eight Hundred 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 Twenty third day of March 2017.

Sd/-

(Anup Kumar)
General Manager