



**In the
Reserve Bank of India
Foreign Exchange Department
Kanpur**

Present

**Shri Mohit Kumar
Asth General Manager/ Compounding Authority**

Date: July 17, 2017

Compounding Order No KAN6/2017-18

In the matter of

**M/s Inficold India Pvt Ltd.
R-9/279, Rajnagar, Ghaziabad,
U.P. – 201 001**

(Applicant)

In exercise of the powers 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 January 23, 2017 (received at Reserve Bank of India, Kanpur on February 06, 2017) for compounding of contraventions of the provisions of the Foreign Exchange



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Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded is: paragraph 8 of Schedule-1 (refund of excess money) 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 Notification No. FEMA 20/2000- RB).

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

The Indian company (applicant) having its registered office at R-9/279, Raj Nagar Ghaziabad – 201001, Uttar Pradesh and having registration number (CIN): U74120UP2015PTC072958. The Indian Company has received USD 800/- (INR 52,400/-) on December 23, 2015, as Foreign Direct Investment from Mr. Himanshu Pokharna, 14654, Placida Court, Saratoga, CA, Saratoga, 95070, United States of America in India in equity shares. However, Indian company reported the foreign inward remittance to RBI (through its AD Bank: HDFC Bank, D-44, RDC, Raj Nagar, Ghaziabad, Uttar Pradesh branch) towards FDI in equity and requested for allotment of Unique Identification Number (UIN). The UIN KPI23121500043 was allotted on February 03, 2016 by RBI, Kanpur and the same was informed to the company as well as AD bank vide letter dated February 04, 2016.

HDFC Bank, D- 44, RDC, Raj Nagar, Ghaziabad, Uttar Pradesh branch (AD bank) vide their letter dated October 27, 2016 had informed RBI, Kanpur that M/s Inficold India Pvt. Ltd., R-9/279, Raj Nagar Ghaziabad –



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201001, Uttar Pradesh (applicant) received foreign inward remittance of ₹ 52,400/- on December 23, 2015, and the shares of Rs. 49,000/- were allotted on August 28, 2015. However, the remaining amount of Rs. 3,400/- was refunded on December 29, 2016, with a delay of 191 days.

According to sub section (1) of section 13, the nature of contravention done by the company is following:

Table 1:

Para of Contravention	Total amount received	Date of receipt of amount (A)	Amount of Refund	Date of refund (B)	No of days in delay (B-A) excluding 180 days
Paragraph 8 of schedule 1 of FEMA-20 /2000-RB dated May 03, 2000:- delay in issue of shares/refund of share application money beyond 180 days	Rs. 52,400/-	December 23, 2015	Rs. 3400/-	December 29, 2016	191 days

3. The applicant company was given an opportunity of personal hearing vide Reserve Bank's letter No KAN.FDI.FED./1037/08.11.268/2016-17 dated May 11, 2017 on May 23, 2017 at 11.00 A.M. for any submission in person and / or producing documents, if any, in support of the application. The applicant vide letter dated May 12, 2017 and e-mail dated May 13, 2017 chose not to appear for the personal hearing to make further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions committed by them for which they have sought



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compounding. It had been submitted that the delays were due to lack of professional guidance and requested that 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 made in this context by the applicant.

4. I have given my careful consideration to the documents on record and submissions made by the applicant, in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of:

(a) Para 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000 by refunding the excess amount of Rs ₹3400/- with a delay of 191 days.

5. In terms of sub section (1) 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, since the amount involved is less than Rs. One lakh, I am guided by Para 7.4 (II) of FED Master Direction No.4/2015-16 dated January 01, 2016 (updated as on February 02, 2017) and I consider that an amount of ₹ 267/- (Rupees Two hundred sixty seven only), will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, contravention of Para 8 of Schedule 1 to Notification No. FEMA 20/2000-



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RB dated May 3,2000 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ **267/-** (Rupees Two hundred sixty seven only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mahatma Gandhi Marg, Kanpur- 208 001, by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Kanpur 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.

7. The application is disposed of accordingly.

Dated the seventeenth day of July, 2017.

Sd/-

Mohit Kumar
Asth. General Manager/ Compounding Authority