



In the

Reserve Bank of India
Foreign Exchange Department
5th Floor, Amar Building
Sir PM Road
Mumbai – 400001

Present

R. Seetharaman
Deputy General Manager

Date: October 17, 2017
CA NO: 4413/2017
In the matter of

Priyanjali Education Private Limited,
Bungalow No.24A, Samarth Aangan Complex, Off K L Wala Walkar Marg,
Oshiwara, Andheri (W), Mumbai-400053

(Applicant)

In exercise of 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 May 25, 2017 (received in the Reserve Bank of India on May 29, 2017) for compounding the 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 are i) non- receipt of share certificate for the investment made in Joint Venture M/s. Europals Travels GMBH, Switzerland ii) non-submission of Annual Performance Reports(APRs) for the years 2012 to 2015 and iv) disinvestment with write-off without submitting Annual Performance Report. The above amount to the contravention of the Regulation 15(i), 15(iii) and 16(1)(v) of



Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time (hereinafter referred to as Notification No FEMA 120-RB 2004).

2. The relevant facts of the case are follows:

The applicant was incorporated as Priyanjali Education Private Limited on October 04, 2005 with CIN NO: U80302MH2005PTC156530. The applicant is engaged in the business of education and related areas. The applicant had sent remittance of CHF 20,000 (INR: 10,39,592.00) on May 10, 2011 for its 51 % stake in the Joint venture (JV) M/s. Europals Travels GMBH, Switzerland and the other partner Mr. Puran Adikari held 49% stake in the said JV. The applicant not received the share certificate contravening the provision of regulation 15(i) of Notification No FEMA 120-RB 2004. The applicant has not submitted the APRs for the years ended March 31, 2012 to 2015, contravening Regulation 15(iii) of Notification No FEMA 120-RB 2004. The applicant disinvested the entire investment with full write-off on July 25, 2015 and reported through the AD bank on January 16, 2017 without submission of APR for the year ended March 31, 2015 contravening the provision of 16(1)(v) Notification No FEMA 120-RB 2004. These transactions were later reported to the Reserve Bank of India by the applicant through AD bank and the transactions were regularised on July 19, 2017.

3.1 Regulation 15(i) of the said Notification requires that An Indian Party, which has acquired foreign security in terms of the Regulations in Part-I, 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



3.2 Regulation 15(iii) of the said Notification requires that An Indian Party, which has acquired foreign security in terms of the Regulations in Part-I, shall submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI, as prescribed by the Reserve Bank from time to time, in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time. The APR, so required to be submitted, has to be based on the audited annual accounts of the JV / WOS for the preceding year, unless specifically exempted by the Reserve Bank.

3.3 Regulation 16(1)(v) of the said notification requires that the overseas concern has been in operation for at least one full year and the Annual Performance Report together with the audited accounts for that year has been submitted to the Reserve Bank;

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./2121/15.20.67/2017-18 dated September 7, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on October 12, 2017 during which Shri. Anil Mittal, Director, M/s. Priyanjali Education Private Limited represented the applicant. The application is considered on the basis of the averments made and documents produced in the application.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 15(i), 15(iii) and 16(1)(v) of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.

i) Regulation 15(i) of FEMA 120-RB 2004 as amended from time to time:

Amount of contravention- Rs.10,39,592.00 (CHF 20000.00) and period of contravention: 5 years and 8 months approximately.



ii) Regulation 15(iii) of FEMA 120-RB 2004 as amended from time to time: Annual Performance Reports (APRS) for the years 2012 to 2015 not submitted. The period of contravention varied from 4 years to 1 year (approximately) pertains to the APR for the years 2012 to 2015.

iii) Regulation 16(1)(v) of FEMA 120-RB 2004 as amended from time to time: Amount of contravention- Rs.10,39,592.00 (CHF 20000.00) and period of contravention: 1 years and 6 months approximately.

6. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, taking into account the relevant facts and circumstance 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.152385.00/- (Rupees one lakh fifty two thousand three hundred and eighty five only) will meet the end of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(i), 15(iii) and 16(1)(v) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant stated above on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs.152385.00/- (Rupees one lakh fifty two thousand three hundred and eighty five only) which shall be deposited by the applicant with the Reserve Bank of India, 11th Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the 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 shall apply.



FED, CEFA
Priyanjali Education Private Limited
CA NO: 4413/2017

The application is disposed accordingly.

Dated this the seventeenth day of October, 2017

Sd/-

(R. Seetharaman)

Deputy General Manager