



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

N Mohana
General Manager

Date : October 13, 2017
C.A.696/2017

In the matter of

M/s. FBA Consulting (India) Pvt Ltd.,
No.13, 1st Street, SBI Officers' Colony,
Arumbakkam, Chennai-600 106

(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 July 19, 2017 (received at Reserve Bank on July 24, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in allotment of shares and (ii) delay in refund of excess inward remittance in terms of Paragraph 8 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a



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Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 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 company was incorporated on February 05, 2007 under the provisions of the Companies Act, 1956 (Registration No. U45400TN2007PTC062242) and is engaged in Business of Architectural and engineering and other technical consultancy activities. The applicant received eight foreign inward remittances amounting to ₹ 52,50,000/- from Mr. Jeffrey John Bennett, Australia between 23.03.2007 and 12.12.2007 towards subscription to equity shares and reported the same to the Reserve Bank. Against the eight remittances, the company allotted 8000 and 503119 shares of ₹10/-each on 12.02.2007 and 20.11.2008 respectively amounting to ₹ 51,11,190/- and filed the FC-GPRs with Reserve Bank.

3. The company allotted 503119 shares of ₹ 10/- each on 20.11.2008 against eight remittances received between 23.03.2007 and 12.12.2007 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	23.03.2007	7,20,000.00	20.11.2008
2	07.04.2007	7,00,000.00	20.11.2008
3	03.07.2007	3,00,000.00	20.11.2008
4	07.07.2007	5,00,000.00	20.11.2008
5	24.07.2007	6,50,000.00	20.11.2008
6	12.09.2007	5,00,000.00	20.11.2008
7	15.10.2007	10,00,000.00	20.11.2008
8	12.12.2007	6,61,190.00	20.11.2008

The company allotted shares with delay ranging from five months eight days to 11 months 21 days beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.



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4. The company refunded the excess inward remittances remaining after allotment of shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1.	12.12.2007	1,38,810.00	11.08.2017

The company refunded the amount as indicated above with delay of nine years one month 29 days approximately beyond the stipulated time of 180 days with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 09, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on October 13, 2017 during which Shri Rama Nayak, Executive Director, represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 3 and 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take 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 other documents and submissions made in this context by the applicant during the personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to:

- (a) Delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 50,31,190/- with the duration of



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contravention ranging from five months eight days to 11 months 21 days approximately; and

- (b) Delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 1,38,810/- with the duration of contravention being nine years one month 29 days approximately.

7. 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 ₹ 1,02,930/- (Rupees one lakh two thousand nine hundred and thirty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraph 8 of Schedule 1 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 ₹ 1,02,930/- (Rupees one lakh two thousand nine hundred and thirty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 Thirteenth day of October, 2017.

Sd/-



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N Mohana
General Manager