



In the

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

Present

Shri. Eugene E Karthak
Regional Director

Date: November 28, 2017
C.A. BGL 255/2017

In the matter of

M/s J C Penney Services India Private Limited
7th, 8th, 9th and 10th Floors of G3 Wing-A Block
Manyata Embassy Business Parks, SEZ
Outer Ring Road, Nagwara
Bengaluru 560 045
(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 October 16, 2017, received at the Office of Reserve Bank of India, Bengaluru on October 19, 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 reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A) and 9(1)(B), respectively, 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: M/s. J C Penney Services India Private Limited, was incorporated on September 28, 2015, under the Companies Act, 2013. The Company is mainly engaged in the business of providing information technology and computer services to group companies. The applicant had received funds towards share application money from foreign investors, namely, M/s J C Penney Corporation INC, USA, M/s JCP Procurement INC, USA and ANSR TX JV Holdings LLC, USA, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	05-11-2015	79,000.00	28-12-2015
2	05-11-2015	1,000.00	28-12-2015
3	26-10-2015	20,015.00	21-01-2016
4	28-01-2016	5,24,88,792.00	05-05-2016
5	28-01-2016	6,13,904.00	19-07-2016
6	02-02-2016	1,33,52,412.00	06-04-2016
	Total	6,65,55,123.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from twenty three days to four months and twelve days approximately, beyond the stipulated period of 30 days, in respect of all remittances as indicated in Table-1 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 company allotted equity shares and filed FC-GPRs with RBI/AD Bank as indicated below:



Table-2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD Bank
1	05-10-2015	79,000.00	14-01-2016
2	05-10-2015	1,000.00	14-01-2016
3	05-10-2015	20,000.00	03-02-2016
4	23-02-2016	5,24,88,792.00	15-06-2016
5	23-02-2016	6,13,904.00	06-10-2016
6	23-02-2016	1,33,52,412.00	31-05-2016
	Total	6,65,55,108.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from two months and seven days to six months and twelve days approximately, beyond the prescribed period of 30 days, in respect of all allotments indicated in Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares, to persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.1603/22.09.718/2017-18 dated November 22, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives Shri Gaurav Vir, Director and Shri Kartheek C N, Company Secretary, who appeared for the personal hearing on November 28, 2017, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention,



but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they requested to take a lenient view in disposal of the application. 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 personal hearing and thereafter.

5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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. 6,65,55,123.00**, and the period of delay ranges from twenty three days to four months and twelve days approximately; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares, to persons resident outside India. The contravention relates to an amount of **Rs. 6,65,55,108.00**, and the period of delay ranges from two months and seven days to six months and twelve days approximately.

6. 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. 68,080.00 (Rupees Sixty Eight Thousand and Eighty only)**, will meet the ends of justice.



7. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **Rs. 68,080.00 (Rupees Sixty Eight Thousand and Eighty 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 Eighth day of November, 2017.

Sd/-

(Eugene E Karthak)
Regional Director