



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
Anupam Sonal
Chief General Manager

Date: June 25, 2018
C.A.NDL 277/2018

In the matter of

Firki Wholesale Private Limited
2nd Floor, Khasra No. 382, Plot No. 4, M G Road, Sultanpur, New Delhi 110030

(Applicant)

In exercise of the powers under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations / Rules / Notifications / Orders made thereunder, I pass the following order.

Order

The applicant has filed a compounding application dated March 16, 2018 (received in Reserve Bank of India on March 19, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)(A) of Schedule 1 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 3rd May, 2000 as amended from time to time (hereinafter referred to as FEMA 20/2000- RB) ,as then applicable and also (ii) delay in submission of form FC-GPR after allotment of shares in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

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



- a) The applicant company was incorporated on June 7, 2012 and allotted registration number U51909DL2012PTC237072. The company is engaged in wholesale business of mobile cases and peripheral products.
- b) The company had received a total of 6 foreign inward remittances from June 18, 2014 to January 11, 2016 for issue of equity shares, out of which, on 3 occasions, the company had reported inward remittances with delay ranging from 1 month and 10 days to 2 years 1 month and 12 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

Contravention of Para 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB			
S.No.	Date of Receipt	Amount (Rs.)	Date of reporting to RBI
1	18.06.2014	48,03,922.00	28.08.2014
2	04.09.2014	48,03,921.78	16.11.2016
3	16.10.2015	48,37,500.00	05.08.2016
	Total	1,44,45,343.78	

Whereas, in terms of Paragraph 9(1) (A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, receipt of amount of consideration towards share subscription not later than 30 days from the date of receipt of the said amount.

- c) The company had allotted equity shares/CCPs on 6 occasions and reported it in form FC-GPR with a delay ranging from 2 months and 7 days to 2 years 5 months and 8 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

Contravention of Para 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB				
S.No.	Date of Allotment	No. of CCPs Allotted	Amount (Rs.)	Date of reporting to RBI
1	21.06.2014	49000	48,03,960.00	29.12.2016
2	04.09.2014	49000	48,03,960.00	28.12.2016
3	12.02.2015	33022	48,64,140.60	05.06.2015



S.No.	Date of Allotment	No. of CCPs Allotted	Amount (Rs.)	Date of reporting to RBI
4	05.03.2015	99065	1,45,92,274.50	05.06.2015
5	24.11.2015	18566	48,37,371.30	21.09.2016
6	11.01.2016	325	28,96,326.23	20.09.2016
		Total	3,67,98,032.63	

Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein, within 30 days from the date of issue of shares to a person resident outside India. Thus, there are contraventions of Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA Notification No 20 /2000-RB dated May 3, 2000, as then applicable.

3. The applicant company was given an opportunity for personal hearing for further submission in person and/or by producing documents, if any, in support of the application. Shri Amit Chaudhary, representative of the applicant company appeared for the personal hearing on June 22, 2018 on behalf of the company. The representative of the applicant company admitted the contraventions committed by the company for which the company has sought compounding. He stated that the delay in reporting was unintentional and in case of reporting of two inward remittances it was due to late obtention of FIRC's from the Bank. He further stated that delay was without any malafide or wilful intention on their part and he requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of documents on record admitting the contraventions.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, due to delay in reporting the inflow of funds from a person resident outside India. The contravention relates to an amount of Rs.1,44,45,343.78 and the delay ranging from 1 month and 10 days to 2 years 1 month and 12 days.



(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, due to delay in filing of form FC-GPR with RBI. The contravention relates to an amount of Rs.3,67,98,032.63 and the delay ranging from 2 months and 7 days to 2 years 5 months and 8 days.

5. It has been declared in the compounding application dated March 16, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated April 28, 2018 furnished by directors of the company with the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

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.96,055/-(Rupees Ninety six thousand fifty five only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000- RB, as then applicable, by the applicant on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **Rs. 96,055/-(Rupees Ninety six thousand fifty five only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New



Delhi-110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 25th day of June, 2018.

Sd/-

(Anupam Sonal)
Chief General Manager