



दिल्ली विधिज्ञ परिषद्  
**BAR COUNCIL OF DELHI**

(Statutory Body Constituted under the Advocates Act, 1961)

H.O. : 2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110 049

Ref. No. : ..1991./..SF../2019

Date : .....29.07.2019.....

Hon'ble Prime Minister of India  
South Block, Secretariat Building,  
Raisina Hill,  
New Delhi.

Sub:- Representation against permitting Foreign Law Firms to open offices in S.E.Z. Area in India.

Respected Sir,

We, the office bearers and Members of Bar Council of Delhi, would like to apprise your honour that the permission granted to the foreign law firms to open their office in SEZ area in India, is contrary to the provisions of The Advocates Act, 1961 and the legal community across the country has never accepted it.

2. The issue is not of recent origin, but in the last almost three decades, there has been attempts made for entry of foreign lawyers in India, which was resisted and opposed by the Bar Council of India, State Bar Councils and other bodies of lawyers across the country, so much so the protests were also held. The consistent stand of the Bar Councils and Bar bodies has been against the entry of foreign lawyers/law firms in India, which has not undergone any change. It also seems that the permission to foreign law firms to open office in SEZ area in India, has been taken without the concurrence of Bar Council of India and State Bar Councils unilaterally, in violation of the provisions of reciprocity under The Advocates Act, 1961.

3. A perusal of the Reserve Bank of India, "FED Master Direction No. 10/2015-16" updated as on 29 March, 2019, it is found that for establishment of Branch Office (BO)/ Liaison Office (LO)/Project Office (PO) or any other place of business in India by foreign entities, in so far as rendering professional or consultancy services is concerned, the same has been included in Annexure C of Para 7 (ii), which reads as under:-

"...7. *Application for additional offices and activities*

...ii. *Requests for undertaking activities in addition to what has been permitted initially (Annex C) by Reserve Bank of India/ AD Category-I bank may be*



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*submitted by the applicant to the Reserve Bank through the designated AD Category-I bank justifying the need..."*

"...Annex C

Permitted activities for a branch office in India of a person resident outside India. Normally, the branch office should be engaged in the activity in which the parent company is engaged.

....ii. Rendering professional or consultancy services...."

4. At the bottom of Annex C, a reference has been made to the interim orders dated 04.07.2012 and 14.09.2015 passed by the Hon'ble Supreme Court of India in the case of "Bar Council of India Versus A.K. Balaji & Others", which is reproduced as under:-

*"...The Hon'ble Supreme Court of India vide its interim orders dated July 4, 2012 and September 14, 2015, passed in the case of Bar Council of India Versus A.K. Balaji & Ors., has directed RBI not to grant permission to any foreign law firm, on or after the date of the said interim order, for opening of LO in India. Hence, no foreign law firm shall be permitted to open any LO in India till further orders/notification in this regard. However, foreign law firms which have been granted permission prior to the date of interim order for opening LOs in India may be allowed to continue provided such permission is still in force. No fresh permissions/ renewal of permission shall be granted by the Reserve Bank / AD Category-I banks respectively till the policy is reviewed based on, among others, final disposal of the matter by the Hon'ble Supreme Court...."*

5. Your kind attention is also invited to Rules framed under the Specific Economic Zone Act, 2005, particularly Rule 76. It may be noted that until 06.01.2017, "legal services" were excluded from the definition of "Services" under this Rule. However, vide notification dated 03.01.2017, the professional services have been included.

6. It may also be pointed out that such provisions has also been made under "Foreign Exchange Management (Establishment in India or Branch Office or Liaison Office or Project





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Office or any other place of business) Regulations, 2016" to include legal profession within the definition of Regulation 2 (h), which defines (stand-alone basis) as under:-

"2 (h) 'Stand-alone basis' means such branch offices would be isolated and restricted to the Special Economic Zone and no business activity/transaction will be allowed outside the Special Economic Zones in India which includes branches/subsidiaries of its parent office in India."

7. In the "Master Direction" issued by the Reserve Bank of India, permitting opening of office, the reference to the interim orders dated 04.07.2012 and 14.09.2015 passed by the Hon'ble Supreme Court of India, in the case of Bar Council of India Versus A.K. Balaji & Others, has been made but the case has now been disposed of by the Hon'ble Apex Court and the same has been reported in AIR 2018 Supreme Court 1382. We need not refer to the relevant paragraphs of the judgment but it is amply clear from the decision of the Supreme Court that foreign lawyers/law firms cannot be allowed entry in India nor they can be permitted to open office in any manner.

8. We have serious objection to the decision to permit foreign law firms in SEZ Area in India unilaterally, without the concurrence of the parent body entrusted with the responsibility of legal profession in India. The decision to permit foreign law firms to open office in SEZ Area in India, being highly arbitrary, uncalled for and contrary to the interest of legal fraternity in India has wider implications. In the background of last 2/3 decades, when massive agitations were held against entry of foreign lawyers and the consistent stand of Bar Councils and Bar Bodies, which is well known to the Government of India, as also all other agencies, permitting to open offices cannot be sustained and needs to be reversed. We may also bring to your kind notice that (SILF) Society for India Law Firms or any other body of the lawyers has no locus standi or authority to speak or deal with this issue in any manner, whatsoever and none should be allowed to meddle.

9. In view of the aforesaid, we would very humbly request your honour to direct withdrawal of the 'Master Directions' issued by the Reserve Bank of India in this regard as also the withdrawal of amendment of Rule 76 of SEZ Rules including provisions of Foreign Exchange Management (Establishment in India or Branch Office or Liaison Office or Project Office or any other place of business) Regulations, 2016, in so far as they relate to the legal profession, directly or indirectly.



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10. We hope and trust that needful would be done expeditiously, without loss of time.

With regards,

(K.C. Mittal)  
Chairman

(D.K. Singh)  
Vice-Chairman

(D.K. Sharma)  
Co-Chairman

(O.P. Faizi)  
Member

(Himal Akhtar)  
Member

(Surya Prakash Khatri)  
Member

(Rajpal Kataria)  
Member

(Ved Prakash Sharma)  
Representative to BCI

(Sanjay Rathi)  
Co-Chairman

(Ramesh Gupta, Sr Adv)  
Member

(Jagdev)  
Member

(Rakesh Sherawat)  
Member

(Kumar Mukesh)  
Member

(Vishnu Sharma)  
Hony. Secretary

(Piyush Gupta)  
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(K.K. Manan, Sr Adv)  
Member

(R.S. Goswami)  
Member

(Vijay K. Sundhi)  
Member

(Ajayinder Sangwan)  
Member

(Rakesh Kr Kochhar)  
Co-Chairman

(Nitin Ahlawat)  
Chairman, Executive  
Committee

(Rajiv Khosla)  
Member

(Sanjeev Nasir)  
Member

(Murari Tiwari)  
Member

(Mahoj Kr Singh)  
Member