



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department

6, Sansad Marg

New Delhi-110001

Present

**Eugene E Karthak**

**Regional Director for Delhi and CGM, New Delhi**

Date: December 19, 2018

C.A.NDL 301/2018

In the matter of

**Palm Land Hospitality Private Limited**

A-1, Chirag Enclave, New Delhi 110048

**(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 the compounding application dated August 2, 2018 (received at Reserve Bank of India, New Delhi on August 8, 2018) for compounding of contravention 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 foreign inward remittances received for issue of shares, and (ii) delay in allotment of shares beyond 180 days from the date of receipt of inward remittance, in terms of Paragraphs 9(1)(A) and 8 respectively 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 May 3, 2000, as amended from time to time (hereinafter referred to as FEMA 20/2000-RB).



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

(a) The company was incorporated on April 24, 2007 and is engaged in the business of hotels, rooms, camps and other lodging places.

(b) The applicant had received four foreign inward remittances from November 21, 2012 to April 4, 2013 for issue of equity shares and reported them with delay ranging from 1 year, 10 months and 7 days to 2 years, 2 months and 18 days (as detailed hereunder) beyond the prescribed period of 30 days in contravention of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

S. No.	Amount (in INR)	Date of receipt	Date of reporting
1	1,50,00,000.00	21.11.2012	11.03.2015
2	3,00,00,000.00	04.01.2013	11.03.2015
3	2,50,00,000.00	05.02.2013	11.03.2015
4	2,00,00,000.00	04.04.2013	11.03.2015
	<b>9,00,00,000.00</b>		

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

(c) The company had allotted 50,000 equity shares on March 3, 2014 against inward remittance of ₹2,00,00,000/- (Rupees Two Crore only) received on April 4, 2013 without prior approval of Reserve Bank. There has been a delay of 5 months and 2 days beyond the prescribed period of 180 days from the date of receipt of inward remittance in allotment of shares in contravention of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

Whereas, in terms of Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, an Indian company has to issue shares/convertible debentures within 180 days of receipt of the inward remittance or date of debit to NRE / FCNR(B) account as the case may be. In case the equity instruments are not issued, the amount of consideration so received shall be refunded to the person concerned by outward remittance through normal banking channels or by credit to his NRE / FCNR (B) account, as the case may be. Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian company to refund the amount of consideration received towards issue of security, if such amount is outstanding



beyond a period of 180 days from the date of receipt.

(d) Thus, there are contraventions of Paragraphs 9(1)(A) and 8 of Schedule 1 to FEMA Notification No. 20 /2000-RB dated May 3, 2000, as then applicable.

3. The applicant 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 Sanjay Khandelwal and Ms. Kusum Lata Singh, both Company Secretary, appeared for personal hearing on December 14, 2018 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that delays were without any *malafide* or wilful intention but were mainly due to the impression held by the company that since the funds were received in INR, compliance to FEMA regulation was not required and requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

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, due to delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹9,00,00,000/- (Rupees Nine Crore only) and the period of delay ranges from 1 year, 10 months and 7 days to 2 years, 2 months and 18 days.

(b) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, due to delay in allotment of shares beyond the prescribed period of 180 days from the date of receipt as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹2,00,00,000/- (Rupees Two Crore only) and the period of delay is 5 months and 2 days.

5. It has been declared in the compounding application dated August 2, 2018 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking dated August 2, 2018 furnished 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 **₹5,43,500/- (Rupees Five Lakh Forty Three Thousand Five Hundred only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of Paragraphs 9(1)(A) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹5,43,500/- (Rupees Five Lakh Forty Three Thousand Five Hundred 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 accordingly.

Dated this the 19<sup>th</sup> day of December 2018.

Sd/-

**(Eugene E Karthak)**  
**Regional Director for Delhi and CGM, New Delhi**