



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Smt. J Sailaja Rani
Deputy General Manager

Date: February 19, 2020
CA HYD 491

In the matter of

M/s. PMFL Machinery Private Limited
8-2-596, 2nd Floor, IVRCL Towers, Banjara Hills
Road No 10, Hyderabad – 500 034

(Applicant)

In exercise of the powers conferred under sub-section 1 of Section 15 of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made thereunder, I pass the following

Order

The applicant has filed the compounding application dated December 23, 2019 received on January 13, 2020 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) Delay in reporting receipt of foreign inward remittances towards the subscription of equity, (ii) Delay in submission of form FC-GPR to the Reserve Bank after issue of shares towards subscription to equity to a person resident outside India and (iii) Delay in refund of balance un-allotted amount of consideration and Delay in receipt of amount of consideration after allotment of shares, (iv) Delay in filing of FLA returns in terms of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8, Paragraph 9(2) 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 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable and Regulation 13.1(3) to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as then applicable respectively.

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

a) The applicant is a resident company incorporated as Private Limited company under the Companies Act, 1956 on February 22, 2012 (CIN: U29253TG2012PTC079299). The company is engaged in "Manufacture of machinery and equipment n.e.c".

b) The applicant had received inward remittances from a foreign investor as indicated below:

S No	Name of Remitter	Total Amount (₹)	Date of Receipt	Date of Reporting
1	Machinenfabrik Liezen und Gisserei Ges.m.b.H	55,000	04.09.2012	19.10.2012
2	Machinenfabrik Liezen und Gisserei Ges.m.b.H	17,81,644	22.02.2013	03.04.2013
	Total	18,36,644		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 18,36,644/- to the Regional Office of Reserve Bank of India, with delays ranging from 10 days to 15 days approximately as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

c) The applicant allotted equity shares and filed forms FC-GPR as indicated below:

Sl No	Name of investor	Date of allotment of shares	Number of shares	Amount for which shares allotted (₹)	Date of reporting
1	Machinenfabrik Liezen und Gisserei Ges.m.b.H	22.09.2011	5,000	50,000	25.10.2012
2	Machinenfabrik Liezen und Gisserei Ges.m.b.H	18.08.2013	1,78,000	17,80,000	18.09.2013
	Total		1,83,000	18,30,000	

The applicant filed forms FC-GPR for the allotment of shares amounting to ₹ 18,30,000/- to the Reserve Bank of India as indicated above, with delays ranging from 1 day to 1 year 3 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

d) The applicant has received the amount of consideration of ₹ 55,000/- after allotment of shares, with a delay of 9 months 13 days approximately beyond the stipulated time from the date of allotment of shares as indicated below in contravention of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable.



Compounding of contraventions under FEMA 1999
M/s PMFL Machinery Private Limited
CA No HYD 491

Sl No	Name of Remitter	Amount (₹)	Date of Allotment	Date of Receipt
1	Machinenfabrik Liezen und Gisserei Ges.m.b.H	55,000	22.09.2011	04.09.2012

e) The applicant has refunded the balance un-allotted share application money of ₹ 5,000/- through Authorized Dealer bank to the investor with the approval of Reserve Bank dated 22.11.2019, with a delay of 6 years 8 months 18 days approximately as indicated below, in contravention of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable.

S No	Name of the Remitter	Amount (₹)	Date of receipt of remittance	Un-allotted balance amount (₹)	Date of approval for refund
1	Machinenfabrik Liezen und Gisserei Ges.m.b.H	55,000	04.09.2012	5,000	22.11.2019

f) The applicant had filed FLA (Foreign Liabilities and Assets) returns for the financial years from 2012-13 to 2018-19 with delays ranging from 4 months to 6 years 4 months 14 days approximately as indicated below:

S No	Financial Year	Due date to file	Actual Date of filing
1	2012-13	15.07.2013	29.11.2019
2	2013-14	15.07.2014	29.11.2019
3	2014-15	15.07.2015	29.11.2019
4	2015-16	15.07.2016	29.11.2019
5	2016-17	15.07.2017	29.11.2019



Compounding of contraventions under FEMA 1999
M/s PMFL Machinery Private Limited
CA No HYD 491

6	2017-18	15.07.2018	29.11.2019
7	2018-19	31.07.2019*	29.11.2019

****Due date of filing for the financial year 2018-19 extended from 15.07.2019 31.07.2019.***

Whereas in terms of Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and Regulation 13.1(3) to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as then applicable, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time].

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1853/14.66.003/2019-20 dated February 13, 2020 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for the personal hearing on February 17, 2020 during which Shri. Subodhakanta Sahoo, Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was due to unawareness of FEMA rules and regulations. In view of the foregoing, the representative of the applicant 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.



4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares to persons resident outside India amounting to ₹ **18,36,644/-** and the period of contravention ranges from 10 days to 15 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in submission of form FC-GPR to Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ **18,30,000/-** as indicated above and the period of contravention ranges from 1 day to 1 year 3 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in receipt of amount of consideration of ₹ **55,000/-** and the period of contravention is 9 months 13 days approximately and also delay in refund of balance un-allotted share application money of ₹ **5,000/-** and the period of contravention is 6 years 8 months 18 days approximately.

(d) Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and Regulation 13.1(3) to Notification No. FEMA 20(R)/2017-RB for delay in filing of FLA returns for seven financial years viz, 2012-13 to 2018-19 and the period of contravention ranges from 4 months to 6 years 4 months 14 days approximately.

5. It has been declared in the compounding application dated December 23, 2019 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 declaration dated December



23, 2019 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 under 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 contravention is to be compounded and I consider that an amount of **₹ 95,109/- (Rupees Ninety Five Thousand One Hundred and Nine Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8, Paragraph 9 (2) of Schedule 1 to Notification No. FEMA 20/2000-RB as then applicable and Regulation 13.1(3) to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as then applicable by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹ 95,109/- (Rupees Ninety Five Thousand One Hundred and Nine Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad within a period of



Compounding of contraventions under FEMA 1999
M/s PMFL Machinery Private Limited
CA No HYD 491

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 19th day of February 2020

Sd/-
(J Sailaja Rani)
Deputy General Manager