



In the  
**Reserve Bank of India**  
Foreign Exchange Department  
Fort Glacis, No.16, Rajaji Salai  
Chennai 600 001

Present

**R Karthikeyan**  
**Assistant General Manager**

Date: January 31, 2020  
**C.A.963/2019**

In the matter of

**M/s. Balcke Duerr Engineering Pvt Ltd.,**  
No.4, Vijaya Tower, 3<sup>rd</sup> floor  
Kodambakkam High Road  
Chennai – 600 034

**(Applicant)**

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/orders made there under, I pass the following

**Order**

The applicant has filed a compounding application dated October 31, 2019 (received at Reserve Bank on November 12, 2019) 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 receipt of consideration and (ii) delay in refund of consideration in terms of



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Paragraph 2(2) and Paragraph 2(3) respectively, of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on June 07, 2018 under the provisions of the Companies Act, 2013 (Registration No. U74999TN2018FTC123111) and is engaged in the business of architectural and engineering activities and related technical consultancy. The company allotted MoA shares on June 07, 2018 and subsequently received foreign inward remittances from (i) M/s. Balcke Duerr GmbH, Germany and (ii) Mutares Holding 24-AG, Germany towards subscription to MoA shares.

3. The company allotted MoA shares and subsequently received the remittances as detailed below:

Sl. No.	Date of receipt	Amount (₹)	Date of Allotment
1	20.08.2018	9,425.00	07.06.2018
2	27.09.2018	575.00	07.06.2018

The company received remittances after allotment of shares with delay ranging from two months 13 days to three months 20 days approximately. Whereas in terms of paragraph 2(2) of Schedule I to Notification No. FEMA 20(R)/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within 60 days from the date of receipt of the consideration.

4. The company refunded the excess consideration of ₹20,547.00 after the allotment of capital instruments as detailed below:

Sl. No.	Date of receipt	Amount (₹)	Date of refund
1	25.02.2019	20,547.00	18.06.2019



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The excess consideration was refunded back to the investor on June 18, 2019 with a delay of one month seven days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, if capital instruments are not issued within 60 days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance within 15 days from the date of completion of 60 days.

**5.** The applicant was advised about the contravention vide memorandum dated June 25, 2019. The applicant has filed a compounding application dated October 31, 2019 wherein it has been declared in the compounding application 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 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/him/her thereafter. 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.** The applicant vide application dated October 31, 2019 chose not to appear for the personal hearing. 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.

**7.** I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- a)** Paragraph 2(2) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in receipt of consideration. The contravention relates to an amount of



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₹10,000.00 with the duration of contravention ranging from two months 13 days to three months 20 days approximately.

b) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of excess consideration received towards subscription to capital instruments. The contravention relates to an amount of ₹20,547.00 with the duration of contravention being one month seven days approximately.

8. 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 ₹412/- (Rupees four hundred and twelve only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contravention of paragraph 2(2) and paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹412/- (Rupees four hundred and twelve only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 thirty first day of January, 2020.

**Sd/-**  
**R Karthikeyan**  
**Assistant General Manager**