



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

Present
V.G. Sekar
Chief General Manager

Date: June 14, 2019
CA No. NDL 376/2019

In the matter of
Kore Communities India Private Limited
114, Ansal Chambers-II, 6, Bhikaji Cama Place, New Delhi-110066
(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 January 2, 2019 (received at Reserve Bank of India, New Delhi on January 24, 2019) 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 foreign inward remittance received for issue of shares, and (ii) delay in filing Form FC-GPR after issue of shares, in terms of paragraphs 9(1)(A) and 9(1)(B) 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company, incorporated on May 3, 2012, is engaged in the business of construction of buildings carried out on own-account basis or on a fee or contract basis.

(b) The applicant had reported the remittances received from its foreign investor, M/s Trikar Residential Developers Private Limited, Singapore, on nine occasions with delay ranging from 2 days to 5 months and 7 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of receipt	Amount (₹)	Date of Reporting
1	20.04.2015	6,24,28,127.00	27.07.2015
2	06.10.2016	1,42,79,304.00	07.11.2016
3	27.07.2017	99,22,527.00	06.09.2017
4	04.08.2017	1,20,00,548.00	07.09.2017
5	31.08.2017	2,24,77,762.00	09.03.2018
6	11.09.2017	95,57,044.00	09.03.2018
7	12.09.2017	1,85,08,293.00	09.03.2018
8	19.09.2017	67,32,047.00	09.03.2018
9	31.10.2017	1,41,88,388.00	09.03.2018
	Total	17,00,94,040.00	

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

(c) The applicant had reported the allotment of shares to its foreign investor, M/s Trikar Residential Developers Private Limited, Singapore, on twenty two occasions with delay ranging from 1 day to 6 months and 14 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of allotment	Amount (₹)	Date of Reporting
1	20.04.2015	6,24,28,100.00	04.06.2015
2	11.09.2015	1,39,12,600.00	13.10.2015
3	09.10.2015	90,57,200.00	09.11.2015
4	08.03.2016	1,47,70,500.00	22.04.2016



Sl. No.	Date of allotment	Amount (₹)	Date of Reporting
5	22.03.2016	66,34,200.00	22.04.2016
6	28.03.2016	99,66,600.00	09.05.2016
7	29.03.2016	86,25,900.00	02.05.2016
8	31.03.2016	3,43,53,900.00	03.05.2016
9	01.09.2016	1,40,17,760.00	12.10.2016
10	23.09.2016	2,99,14,880.00	03.11.2016
11	26.09.2016	1,79,72,800.00	03.11.2016
12	02.11.2016	2,53,33,600.00	10.01.2017
13	12.04.2017	1,61,16,160.00	24.08.2017
14	18.04.2017	64,38,880.00	22.05.2017
15	27.07.2017	99,22,520.00	11.09.2017
16	04.08.2017	1,20,00,540.00	11.09.2017
17	11.08.2017	1,53,47,640.00	11.09.2017
18	31.08.2017	2,24,77,760.00	13.04.2018
19	11.09.2017	95,57,040.00	13.04.2018
20	12.09.2017	1,85,08,290.00	12.04.2018
21	19.09.2017	67,32,040.00	13.04.2018
22	31.10.2017	1,41,88,380.00	13.04.2018
	Total	37,82,77,290.00	

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in Form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) Thus, there are contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, 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 Saurabh Sharma and Shri Barinder Singh Maur, both Company Secretary appeared for personal hearing on June 14, 2019 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 contraventions were without any *malafide* or wilful intention but were mainly due to operational and administrative issues including change in the board of directors and leaving of key employees looking after the affairs of the company. They 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, on account of delay in reporting foreign inward remittances received towards subscription of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹17,00,94,040/- (Rupees Seventeen Crore Ninety Four Thousand and Forty only) and the period of delay ranges from 2 days to 5 months and 7 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, on account of delay in filing Form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹37,82,77,290/- (Rupees Thirty Seven Crore Eighty Two Lakh Seventy Seven Thousand Two Hundred and Ninety only) and the period of delay ranges from 1 day to 6 months and 14 days.

5. It has been declared in the compounding application dated January 2, 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 also been declared in the declaration dated April 2, 2019 furnished as part of 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. 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 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to compound the contraventions,



in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹2,56,360/- (Rupees Two Lakh Fifty Six Thousand Three Hundred and Sixty only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A) and 9(1)(B) 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 **₹2,56,360/- (Rupees Two Lakh Fifty Six Thousand Three Hundred and Sixty 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 14th day of June 2019.

Sd/-
(V.G. Sekar)
Chief General Manager