



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: April 25, 2019
C.A. BGL 351/2018

In the matter of

M/s Korta Engineering India Private Limited
163, 10th Main, Peenya Industrial Area, 3rd Phase
Bengaluru - 560058
(Applicant)

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

ORDER

The applicant has filed a compounding application dated December 12, 2018, received at this office of Reserve Bank of India, Bengaluru on December 12, 2018, 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 reporting receipt of foreign inward remittances towards subscription to equity, (ii) allotment of shares beyond 180 days from the date of receipt of inward remittance, and (iii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 and 9(1)(B) respectively, of Schedule I 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, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).



2. The relevant facts of the case are as follows: The applicant, M/s Korta Engineering India Private Limited, was incorporated on September 18, 2007, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of manufacturing, distributing, exporting, importing and trading in machine tool precision accessories such as ball screw assemblies. The applicant had received funds towards share application money from the foreign investor, namely, M/s Korta Inversiones SL, Spain, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	05-11-2007	16,99,740.00	09-09-2008
2	30-11-2007	8,71,549.00	09-09-2008
3	11-02-2008	51,61,500.00	09-09-2008
4	14-11-2008	68,68,216.90	16-01-2009
5	09-03-2010	24,41,600.00	22-03-2010
	Total	1,70,42,605.90	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one month and two days to nine months and four days, beyond the stipulated period of 30 days in respect of remittances as indicated at serial numbers 1 to 4, in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I 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.

3. The company had received an inward remittance of **₹51,61,500.00**, on February 11, 2008, from the non-resident investor, M/s Korta Inversiones SL, Spain, and allotted 1,43,300 equity shares worth **₹14,33,000.00**. The excess share application money of **₹37,28,500.00**, was utilized to allot 2,98,280 equity



shares to the non-resident investor, M/s Korta Inversiones SL, Spain, on November 27, 2013, with a delay beyond the stipulated period of 180 days from the date of inward remittance, without prior approval of Reserve Bank of India. Whereas, in terms of Paragraph 8 of Schedule 1 to Notification no. FEMA 20/2000- RB, dated May 3, 2000, and as amended from time to time, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded or shares shall be allotted to the person concerned, provided, the Reserve Bank may, on an application made to it and for sufficient reasons, permit to refund the amount of consideration received towards issue of security or permit to allot shares, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amount of contravention is **₹37,28,500.00**, and the period of delay is five years three months and eighteen days.

4. The applicant company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	22-01-2008	256700	25,67,000.00	09-09-2008
2	15-02-2008	143300	14,33,000.00	09-09-2008
3	24-03-2009	686820	68,68,200.00	19-05-2009
4	29-03-2010	244160	24,41,600.00	06-10-2016
5	27-11-2013	298280	37,28,500.00	12-07-2017
	Total	16,29,260	1,70,38,300.00	

The applicant filed the form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from twenty six days to six years five months and eight days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 1 to 5, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these



Regulations has to submit to the Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to person/s resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4684/22.06.830/2018-19 dated April 16, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Ramkumar Menon, Assistant Finance Manager, and Mr. Mahesh R, Accounts Officer, who appeared for the personal hearing on April 23, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 during personal hearing and thereafter.

6. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of ₹1,46,01,005.90, and the period of delay ranges from one month and two days to nine months and four days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to allotment of shares beyond 180 days from the date of receipt of inward remittances, without prior approval from Reserve Bank of India as detailed in



paragraph 3 above. The total amount of contravention is **₹37,28,500.00**, and the period of delay is five years three months and eighteen days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPRs to the Reserve Bank after issue of shares to person/s resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **₹1,70,38,300.00**, and the period of delay ranges from twenty six days to six years five months and eight days.

7. It has been declared in the compounding application dated December 12, 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, 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.

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 contraventions are to be compounded, and I consider that an amount of **₹1,20,930.00, (Rupees One Lakh Twenty Thousand Nine Hundred and Thirty only)**, will meet the ends of justice.



9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹1,20,930.00, (Rupees One lakh Twenty Thousand Nine Hundred and Thirty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru 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 of accordingly.

Dated this, the Twenty Fifth day of April 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru