



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: September 27, 2019
C.A. BGL 451/2019

In the matter of

M/s Gessmann Controllers India Private Limited
Plot No.19/1-A, 2nd Main
2nd Phase, Peenya Industrial Area
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 June 19, 2019, received at the office of the Reserve Bank of India, Bengaluru, on July 03, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA) and the Regulations issued there under. The contravention sought to be compounded is delay in submission of form FC-GPR to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraph 9(1)(B), 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 Gessmann Controllers India Pvt. Ltd, was incorporated on December 20, 2016, under the



Companies Act, 2013, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka. The activity undertaken by the company is to develop, design, import, assemble, test, export, commission, manufacture, trade industrial controllers, control unit and operator control stations and panels and its services. The applicant had received funds towards share application money from the non-resident investor, namely, M/s W. Gessmann GmbH, Germany, as shown below:

Table -1

Sl. No	Date of receipt	Amount (INR)	Date of Reporting to RBI/AD
1	20-01-2017	1,87,50,011.59	01-02-2017
	Total	1,87,50,011.59	

3. The company had allotted shares to the non-resident investors, namely, M/s W. Gessmann GmbH, Germany and M/s Goswein GmbH Steuerberatungsgesellschaft, Germany and filed form FC-GPR, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, with Reserve Bank/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	17-03-2017	1874813	1,87,48,130.00	06-07-2018
2	17-03-2017	187	1,870.00	06-07-2018
	Total	18,75,000	1,87,50,000.00	

The applicant filed Form FC-GPR, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay of one year two months and twenty days, beyond the prescribed period of 30 days, in respect of the allotments indicated 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 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 persons resident outside India.



4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.805/22.11.311/2019-20, dated September 19, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Mahesh Bhat, Practicing Chartered Accountant and Mr. Sandesha, Company Secretary, who appeared for the personal hearing on September 27, 2019, admitted the contravention as stated in Paragraph 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, the representatives of the applicant requested that as the contravention was 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.

5. 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 provision issued in terms of :

Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPR to the Reserve Bank, after issue of shares to persons resident outside India as detailed in Paragraph 3 above. The contravention relates to an amount of **₹1,87,50,000.00**, and the period of delay is one year two months and twenty days.

6. It has been declared in the compounding application dated June 19, 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 undertaking, 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, 1999. Accordingly, the above contravention which is being compounded in this order is 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.

7. 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 **₹72,500.00 (Rupees Seventy Two Thousand Five Hundred only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 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 **₹72,500.00 (Rupees Seventy Two Thousand Five Hundred 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”, 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 Seventh day of September 2019.

Sd/-

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