



In the

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

Present

S Sathish Kumar
Deputy General Manager

Date: April 3, 2019
C.A.878/2019

In the matter of

M/s. Samraj Marketing and Services Pvt Ltd.
(Formerly Optosem Technologies India Pvt Ltd.)
No.12A, Old Township Road
Ambattur
Chennai-600 053.

(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 January 21, 2019 (received at Reserve Bank on January 22, 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)



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delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (ii) delay in refund of excess inward remittance received, in terms of Paragraphs 9(1)B and 8 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 3, 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on October 26, 2006 under the provisions of the Companies Act, 1956 (Registration No: U51101TN2006PTC061382) and is engaged in the business of manufacturing of moulded industrial accessories of plastics. The applicant received one foreign inward remittance on May 28, 2007 amounting to ₹26,21,959.87 from Mr. Tang Gekhai, Singapore towards subscription to equity shares and reported the same to Reserve Bank.

3. The company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	No. of shares	Face Value (in Rs.)	Amount (INR)	Date of allotment	Reported to RBI on
1	40,000	10	4,00,000.00	10.09.2007	24.07.2018

The applicant filed form FC-GPR as indicated above with delay of 10 years nine months 14 days approximately beyond the prescribed period in respect of allotment. Whereas in terms of paragraph 9 (1) B of Schedule I 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company refunded the balance amount of inward remittance received on May 28, 2007 as detailed in the table:



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Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	28.05.2007	22,21,959.87	19.02.2019

The company refunded the excess inward remittance with delay of 11 years two months 22 days approximately beyond the prescribed period of 180 days with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated December 24, 2018. The applicant has filed a compounding application dated January 21, 2019. 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 was given an opportunity for personal hearing vide Reserve Bank's mail dated March 26, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide email dated March 27, 2019 has requested to waive off the personal hearing. The applicant, in the compounding application, had admitted the contraventions as stated in para 3 and 4 above for which compounding has been sought. It had been submitted that the delay was unintentional. The application for compounding is, therefore, being considered on



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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 and during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) B of Schedule 1 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 and the contravention relates to an amount ₹4,00,000.00 with duration of contravention being 10 years nine months 14 days approximately; and

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with para 5 of AP (DIR Series) Circular No.20 dated December 14, 2007 due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹22,21,959.87 with the duration of contravention being 11 years two months 22 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 contraventions are to be compounded and I consider that an amount of **₹90,827/-** (Rupees ninty thousand eight hundred and twenty seven only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-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 **₹ 90,827/-**



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(Rupees ninty thousand eight hundred and twenty seven 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 Third day of April, 2019.

Sd/-

S Sathish Kumar

Deputy General Manager