



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

N Sara Rajendra Kumar
General Manager

Date: February 06, 2019
C.A. HYD 369

In the matter of

M/s. Constructora San Jose GVK Projects & Technical Services Private Limited
156-159, Paigah House, Sardar Patel Road
Secunderabad - 500 003

(Applicant)

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

Order

The applicant has submitted the compounding application dated December 3, 2018 received by us on December 11, 2018 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity and (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India in terms of Paragraph 9(1)(A) and Paragraph 9(1)(B) 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 3rd May 2000 as then applicable (herein after referred to as Notification no. FEMA 20/2000-RB).

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

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 2013 on September 09, 2016 (CIN: U45309TG2016PTC111910). The company is engaged in the business of "Other civil engineering projects n.e.c".
- b) The applicant had received foreign inward remittances from a single foreign investor as indicated below:

SI No	Name of Remitter	Amount (INR)	Date of Receipt	Date of Reporting
1	Constructora San Jose, S.A, Spain	50,51,593	13.12.2016	24.01.2017
Total		50,51,593		

The applicant reported receipt of remittance towards share subscription amounting to ₹ 50,51,593/- to the Regional Office of Reserve Bank of India, which was reported with a delay of 12 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

- c) The company allotted equity shares and filed form FC-GPRs as indicated below:

SI No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting to AD or RBI
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Compounding of contraventions under FEMA 1999
M/s Constructora San Jose GVK Projects & Technical Services Private Limited
CA No. HYD 369

1	Constructora San Jose, S.A, Spain	14.12.2016	5,000	50,000	06.03.2017
2	Constructora San Jose, S.A, Spain	06.02.2017	5,00,000	50,00,000	06.03.2017
Total				50,50,000	

The applicant filed form FCGPRs for the allotment of shares amounting to ₹ 50,50,000/- as indicated above, out of which remittance amounting to ₹ 50,000/- was reported with a delay of 1 month 21 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1592/14.66.003/2018-19 dated February 01, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on February 05, 2019 during which Shri. M. Rama Murthy, Director, represented the applicant. The Director of the applicant company admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was purely unintentional and not malafide in nature but was on account of administrative reasons. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-



(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to **₹ 50,51,593/-** with a delay of 12 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of **₹ 50,000/-** with a delay of 1 month 21 days approximately.

5. It has been declared in the compounding application dated December 3, 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 declaration dated December 3, 2018 that the applicant was not under any enquiry/investigation/adjudication proceedings 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. 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 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 **₹ 10,916/- (Rupees Ten Thousand Nine Hundred and Sixteen Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 9(1)(B) 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 **₹ 10,916/- (Rupees Ten Thousand Nine Hundred and Sixteen Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 6th day of February 2019.

Sd/-
(N Sara Rajendra Kumar)
General Manager