



In the

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

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: April 22, 2019
C.A. HYD 368

In the matter of
M/s MMD Heavy Machinery (India) Private Limited
5600 Central Expressway, Sector 24,
Sricity, Satyavedu Mandal,
Chittoor, Andhra Pradesh-517588

(Applicant)

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

Order

The applicant has filed the compounding application dated November 29, 2018 received on December 10, 2018 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances and (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to



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equity of Schedule 1 to Foreign Exchange Management Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable and as amended.

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, 1956 on 25/07/2012, with CIN: U29253AP2012PTC106326. The company is engaged in manufacture of parts and accessories for machinery/equipment used by Construction and Mining Industries.
- b) The applicant had received foreign inward remittances for subscription to equity shares as indicated below:

S.No	Name of remitter	Amount (INR)	Date of Receipt	Date of reporting
1	MMD GPHC Limited	10,00,00,000	01/10/2012	10/11/2012
2	MMD GPHC Limited	8,13,90,000	16/05/2013	27/05/2013
3	MMD GPHC Limited	9,71,50,000	06/11/2013	12/11/2013
4	MMD GPHC Limited	15,00,30,000	30/07/2014	29/08/2014
5	MMD GPHC Limited	4,71,10,000	28/04/2015	27/05/2015
6	MMD GPHC Limited	9,60,00,000	03/06/2015	18/06/2015
7	MMD GPHC Limited	9,81,50,000	26/11/2015	04/04/2019
8	MMD GPHC Limited	8,35,80,000	27/10/2017	07/03/2018
	Total	75,34,10,000		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **75,34,10,000/-** to the Regional Office of Reserve Bank of India out of which remittances amounting to ₹ **28,17,30,000/-** were reported with delays ranging from 10 days to 3 years 3 months 9 days approximately as indicated above. 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



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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 shares and filed form FC-GPRs as indicated below.

S.No	Name of investor	Date of allotment of shares	No. of Shares allotted	Amount for which shares allotted (INR)	Date of reporting to RBI
1	MMD GPHC Limited	01/10/2012	9998	99980	15/05/2013
	MMD Asia Pacific Ltd		1	10	
2	MMD GPHC Limited	20/03/2013	999000	99900000	09/04/2013
3	MMD GPHC Limited	14/06/2013	813900	81390000	26/06/2013
4	MMD GPHC Limited	24/12/2013	971500	97150000	21/01/2014
5	MMD GPHC Limited	26/09/2014	1500300	150030000	27/10/2014
6	MMD GPHC Limited	30/09/2015	471100	47110000	03/03/2016
7	MMD GPHC Limited	01/12/2015	960000	96000000	09/03/2016
8	MMD GPHC Limited	06/05/2016	981500	98150000	07/06/2016
9	MMD GPHC	22/03/2018	835800	83580000	11/06/2018



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	Limited				
		Total	7543099	753409990	

The applicant filed form FCGPRs for the allotment of shares amounting to ₹75,34,09,990/- as indicated above out of which FCGPRs for ₹39,13,89,990/- were reported with delays ranging from 2 days to 6 months 14 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/2176/14.66.003/2018-19 dated April 12, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The Authorized representative of the company Shri N. Sandeep Kumar, Chartered Accountant appeared for the personal hearing. He admitted the contraventions for which the compounding has been sought. During the personal hearing, it was submitted that the delay was not wilful or with a malafide intention but was on account of administrative lapses. In view of the above, 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 as well the submissions made in this context by the applicant during the personal hearing.

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



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₹ **28,17,30,000/-** and the delay ranges 10 days to 3 years 3 months 9 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 ₹ **39,13,89,990/-** and the period of contravention ranges from 2 days to 6 months 14 days approximately.

5. It has been declared in the compounding application dated November 29, 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 November 20, 2018 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.

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 ₹ **2,57,080/- (Rupees Two Lakhs Fifty Seven Thousand and Eighty 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 FEMA.20/2000-RB by



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the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹2,57,080/- (Rupees Two Lakhs Fifty Seven Thousand and Eighty 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 of accordingly.

Dated this 22nd day of April 2019

Sd/-

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)