



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: March 12, 2019
C.A. HYD 343

In the matter of
M/s Amsri Builders Private Limited
20 b, St John's Roadessen Chambers
Secunderabad 500025

(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 there under, I pass the following

Order

The applicant has filed the compounding application dated November 8, 2018 received on November 9, 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 (ii) delay in allotment of shares to the foreign investor beyond 180 days from the date receipt of foreign inward remittance and (iii) delay in filing of FLA returns in terms of Paragraph 9(1)(A), Paragraph 8 and Paragraph 9(2) of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) Regulations, 2000 respectively



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notified vide Notification no. FEMA. 20/2000-RB dated 3rd May 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 17.06.1998 (U70100TG1998PTC029590). The company is engaged in construction of buildings carried out on own-account basis or on a fee or contract basis.
- b) The applicant had received foreign inward remittances as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Malbern Trade & Investment Ltd, Cyprus WOS of Indiareit offshore fund	223000000	29.03.2007	19.04.2007
2	Malbern Investment Ltd earlier called Amsri Investment Ltd	600000	13.12.2007	25.01.2008
	Total	22,36,00,000		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **22,36,00,000/-** to the Regional Office of Reserve Bank of India out of which ₹ **6,00,000/-** were reported with a delay of 13 days approximately. 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



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procedure not later than 30 days from the date of receipt of the amount of consideration.

c) The company has delayed in allotment of shares to the non-resident investors as detailed below:

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Number of Shares/CC Ds allotted	Date of allotment
1	Malbern Trade & Investment Ltd, Cyprus WOS of Indiareit offshore fund	223000000	29.03.2007	22300000	14.02.2008

The applicant has allotted shares amounting to ₹ **22,30,00,000/-** beyond the stipulated period of 180 days from the date of receipt of remittance with a delay of 2 months 16 days approximately. Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, an Indian company shall issue or convertible debentures in accordance with these Regulations as per the prescribed procedure not later than 180 days from the date of receipt of the amount of consideration.

d) The company has delayed in filing FLA Return (Foreign liabilities and Assets) for 7 years as shown below:

SI No	Particulars	Financial year	Due date of filing	Date of actual filing
1	FLA Return	2010-11	15-07-2011	06-09-2011
2	FLA Return	2011-12	15-07-2012	23-02-2019



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3	FLA Return	2012-13	15-07-2013	23-02-2019
4	FLA Return	2013-14	15-07-2014	23-02-2019
5	FLA Return	2014-15	15-07-2015	23-02-2019
6	FLA Return	2015-16	15-07-2016	23-02-2019
7	FLA Return	2016-17	15-07-2017	23-02-2019

The company had filed FLA returns for 7 years with delays ranging from 1 month 23 days to 6 years 7 months 8 days approximately. Whereas, in terms of Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

3. (a) The applicant submitted letter dated November 8, 2018 along with the compounding application stating that they choose not to avail of the Personal Hearing.



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(b) In view of the foregoing, 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 ₹ 6,00,000/- and the delay is 13 days approximately.

(b) Paragraph 8 of Schedule 1 to Notification No. 20/2000-RB for delay in issue of equity shares beyond 180 days and the contravention relates to an amount of ₹22,30,00,000/- and the delay is 2 months 16 days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No. 20/2000-RB for delay in filing of FLA returns and the period of contravention ranges from 1 month 23 days to 6 years 7 months 8 days approximately.

5. It has been declared in the compounding application dated November 8, 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 8, 2018 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.



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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 ₹ **9,53,830 /-** (**Rupees Nine lakhs Fifty Three Thousand Eight Hundred and Thirty Only**) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 8 and Paragraph 9(2) 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 ₹ **9,53,830 /-** (**Rupees Nine lakhs Fifty Three Thousand Eight Hundred and Thirty 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 12th day of March 2019

(Sd/-)

(Subrata Das)

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