



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Smt. K S Jyotsna
General Manager, Bengaluru

Date: May 17, 2019
C.A. BGL 367/2018

In the matter of

M/s Procsys Hospitality Private Limited
No.131, 132, Residency Road
No.401, 4th Floor Devatha Plaza
Bengaluru - 560025
(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 January 17, 2019, received at this office of Reserve Bank of India, Bengaluru on January 18, 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) delay in reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to persons resident outside India, in terms of Paragraphs 9(1)(A) and 9(1)(B) 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 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 Procsys Hospitality Private Limited, was incorporated on February 11, 2004, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of running restaurants, hotels, resorts and other connected activities in the hospitality industry. The applicant had received funds towards share application money from the foreign investors, namely, Mr. Haruya Nishino, Japan, M/s Hiro International INC, Japan, Mr. Horoyuki Tsujimoto, Japan, and Mr. Yasu Hiro Kishino, Japan, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	30-03-2004	12,22,636.00	11-12-2012
2	16-08-2004	14,77,657.00	11-12-2012
3	30-03-2004	12,22,922.00	11-11-2015
4	26-07-2004	14,78,400.00	11-11-2015
5	25-04-2005	4,36,300.00	22-06-2011
6	01-10-2004	12,37,500.00	11-12-2012
7	06-05-2005	4,32,800.00	22-06-2011
8	24-06-2005	8,69,400.00	11-11-2015
	Total	83,77,615.00	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from six years and seventeen days to eleven years six months and thirteen days, beyond the stipulated period of 30 days in respect of the remittances as indicated in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I 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.



3. The applicant company allotted equity shares and filed form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	21-05-2005	586900 CCPs	58,69,000.00	26-12-2011
2	31-10-2005	250000 equity shares	25,00,000.00	22-11-2011
	Total		83,69,000.00	

The applicant filed the form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from five years eleven months and twenty three days to six years six months and six days, beyond the prescribed period of 30 days in respect of allotment of shares as 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 the 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 person/s resident outside India

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 5910/22.08.050/2018-19, dated May 13, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Vinod Koul, Director, and Mr. Vinod Sunder R, Consultant, who appeared for the personal hearing on May 15, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they 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 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 provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹83,77,615.00**, and the period of delay ranges from six years and seventeen days to eleven years six months and thirteen days; and

(b) 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 person/s resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of **₹83,69,000.00**, and the period of delay ranges from five years eleven months and twenty three days to six years six months and six days.

6. It has been declared in the compounding application dated January 17, 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 dated January 17, 2019, 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.

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 contraventions are to be compounded, and I consider that an amount of **₹2,23,350.00, (Rupees Two Lakh Twenty Three Thousand Three Hundred and Fifty only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 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 **₹2,23,350.00, (Rupees Two Lakh Twenty Three Thousand Three Hundred and Fifty 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” and 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 Seventeenth day of May 2019.

Sd/-

(K S Jyotsna)
General Manager, Bengaluru