



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: March 12, 2020
C.A.974/2019

In the matter of

M/s.Ekki Homa Pvt Ltd.
113-5, Sathy Road,
Near AthipalayamPirivu, Ganapathy
Coimbatore — 641 0006

(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 December 12, 2019(received at Reserve Bank on December 19,2019) 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 submission of Form FC-GPR to Reserve Bank on allotment of shares (ii) delay in receipt of consideration in terms of Paragraph 9(1)B and Paragraph 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 June 16, 2017 under the provisions of the Companies Act, 2013 (Registration No. U74999TZ2017PTC02907) and is engaged in the business of manufacture of other pumps, compressors, taps and valves etc. The applicant received three foreign inward remittances amounting to ₹79,16,869.00 from M/s. HomaPumpenfabrik GMBH, Germany, towards subscription to capital instruments.

3. The applicant company allotted capital instruments and filed Forms FC-GPR as detailed in the table below:

Sl. No.	No.of shares allotted	Share Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	150000	10.00	15,00,000.00	16.06.2017	04.05.2019
2	143916	10.00	14,39,160.00	02.07.2018	12.06.2019
3	497332	10.00	49,73,320.00	13.08.2018	17.07.2019

The applicant filed the Form FCGPR with respect to allotment at Sl.No.1 with a delay of one year nine months 19 days approximately beyond the stipulated time of 30 days. 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. With respect to allotments at Sl.Nos.2 & 3, there is a delay in filing FCGPR in contravention of Regulation 13.1(2) of Notification No.FEMA 20(R)/2017-RB, for which Late Submission Fee (LSF) is applicable.

4. The company allotted 150000 shares on June 16, 2017. The consideration towards the said allotment was received by way of inward remittance as detailed in the table:



Sl. No.	Date of receipt	Amount of Inward Remittance in ₹	Date of allotment
1	15.06.2018	15,00,000.00	16.06.2017

The company received the consideration towards allotment of shares with a delay of eleven months 30 days approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, a company issuing the shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by way of inward remittance through normal banking channels or by debit to NRE/FCNR account of the person concerned maintained with an authorized dealer/authorized bank.

5.The applicant was advised about the contraventions vide memorandum dated July 18, 2019. The applicant has filed compounding application dated December12, 2019 wherein it has been declared 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 10, 2020for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated March 11, 2020 informed of not appearing for the personal hearing on March 12, 2020 and has submitted that the delays were unintentional. In view of the above, they have requested



Reserve Bank to take a lenient view in the matter. 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 the personal hearing.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) 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 persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of ₹15,00,000.00 with the duration of contravention being one year nine months 19 days approximately; and

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in receipt of consideration, as detailed in paragraph 4 above. The contravention relates to an amount of ₹15,00,000.00 with the duration of contravention being 11 months 30 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 **₹49,075/-** (Rupees forty nine thousand and seventy five 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 I 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 **₹49,075/-** (Rupees forty nine thousand and seventy five only) which shall be deposited by the



M/s.Ekki Homa Pvt Ltd.–C.A.974/2019

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 twelfth day of March,2020.

Sd/-

S Sathish Kumar

Deputy General Manager