



In the

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

Present

Shri P J Thomas
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: January 23, 2019
C.A. BGL 328/2018

In the matter of

M/s VBHC Value Homes Private Limited
VBHC House, 74 & 75
Millers Road
Bengaluru - 560102
(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 October 09, 2018, received at this office of Reserve Bank of India, Bengaluru on October 09, 2018, 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, (ii) allotment of shares prior to receipt of share application money and allotment of shares beyond 180 days from the date of receipt of inward remittance, and (iii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 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 VBHC Value Homes Private Limited, is a company originally incorporated as M/s Value and Budget Housing Corporation (India) Private Limited on July 14, 2008, under the Companies Act, 1956 as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. Subsequently name of the company has changed to M/s Value and Budget Housing Corporation Private Limited with effect from July 19, 2010, under the Companies Act, 1956. The company name got changed again to M/s VBHC Value Homes Private Limited, with effect from March 05, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is to carry on the business as administrators, advisors, consultants, research analysts, market informants, in the field of investing in real estate projects in India and overseas. The applicant had received funds towards share application money from the foreign investors, namely, Mr. Ashoke Dutt, USA, Mr. Victor J Menezes, USA, Mr. Venkatachalam Krishnakumar and Mrs. Aditi Krishnakumar, Singapore, Mr. Sat Pal Khattar/Mrs. Reeta Khattar, Singapore, Mr. Rajeev Talwar, Mr. Bhaskar Menon, USA, M/s India Financial Inclusion Fund, Mauritius, Mr. Rajendra Kumar Mishra, Singapore, Mr. Steven Pinto and Ms. Asha Pinto, Dubai, M/s First Carlyle Growth IX, Mauritius, M/s International Finance Corp, USA, M/s Sticking Van Herk Investments Foundation, Netherland, Mr. Dalip Pathak, USA, M/s DH Asia Investment Pte Ltd, Singapore, and M/s Tano India Private Equity Fund II, Mauritius, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	11-06-2009	50,00,000.00	11-12-2009
2	19-06-2009	1,00,00,000.00	11-12-2009
3	17-06-2009	50,00,000.00	11-12-2009



4	07-07-2009	1,00,00,000.00	11-12-2009
5	16-11-2009	20,00,000.00	11-12-2009
6	29-09-2010	22,43,500.00	06-12-2010
7	01-09-2010	17,37,30,000.12	27-09-2010
8	27-10-2010	85,91,700.00	24-12-2010
9	04-10-2010	1,55,00,000.00	10-12-2010
10	27-09-2009	3,03,375.00	18-07-2013
11	27-09-2010	45,00,000.00	08-12-2010
12	05-08-2011	61,00,00,512.00	05-09-2011
13	23-09-2011	5,00,00,016.00	10-10-2011
14	20-12-2011	10,00,00,032.00	18-01-2012
15	17-05-2013	20,00,00,000.00	30-05-2013
16	09-07-2013	39,99,99,834.00	23-07-2013
17	24-03-2014	18,15,00,000.00	02-04-2014
18	28-03-2014	18,15,00,000.00	11-04-2014
19	08-07-2014	18,04,65,120.00	20-10-2014
20	22-07-2015	5,00,00,400.00	11-09-2015
21	30-07-2015	5,03,42,000.00	21-08-2015
22	26-10-2015	59,15,73,294.00	23-11-2015
23	22-02-2016	40,00,00,248.00	10-03-2016
	Total	323,22,50,031.12	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one day to three years eight months and twenty one days, beyond the stipulated period of 30 days in respect of remittances as indicated at serial numbers 1 to 4, 6, 8 to 12, 19 and 20, 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 company had allotted equity shares to the foreign investors, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, in the instances mentioned here below, the company had



allotted shares prior to the receipt of inward remittances or allotted shares beyond 180 days from the date of receipt of inward remittances, without prior approval from Reserve Bank of India.

(i) The company had allotted 2,00,000 CCPS worth ₹20,00,000.00, to the non-resident investor Mr. Rajeev Talwar, Bangalore, on November 09, 2009. However, the inward remittance of ₹20,00,000.00, pertaining to the aforesaid allotment was received after the allotment of shares i.e. on November 16, 2009. The amount of contravention is ₹20,00,000.00, and the period of contravention is seven days; and

(ii) The company had received an inward remittance of ₹3,03,375.00, from the non-resident investor Mr. Steven Pinto and Ms. Asha Pinto, Dubai, on September 27, 2009. However, the shares were allotted on December 20, 2010, to the non-resident investor, beyond 180 days from the date of receipt of inward remittance without the prior approval of Reserve Bank of India. The amount of contravention is ₹3,03,375.00, and the period of contravention is eight months and twenty four days.

In terms of Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, as amended from time to time, read with A.P. (DIR Series) Circular No.20 dated December 14, 2007, an Indian company accepting FDI has to first receive share application money from the non-resident investor, and within 180 days of receipt of the same, the shares have to be issued.

4. 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 equity shares/CCPS allotted	Amount (INR)	Date of reporting to RBI/AD
1	09-11-2009	3200000 CCPS	3,20,00,000.00	11-12-2009
2	20-12-2010	536982 equity shares	20,13,68,250.00	19-01-2011



3	05-08-2011	1155304 equity shares	61,00,00,512.00	25-08-2011
4	22-11-2011	94697 equity shares	5,00,00,016.00	21-12-2011
5	26-12-2011	189394 equity shares	10,00,00,032.00	09-01-2012
6	17-05-2013	378788 equity shares	19,99,99,999.98	12-06-2013
7	09-07-2013	690846 equity shares	39,99,99,834.00	26-07-2013
8	31-03-2014	687500 equity shares	36,30,00,000.00	28-04-2014
9	08-07-2014	341790 equity shares	18,04,65,120.00	19-09-2014
10	23-07-2015	81700 equity shares	5,00,00,400.00	16-09-2015
11	14-08-2015	81700 equity shares	5,00,00,400.00	16-09-2015
12	27-10-2015	952614 equity shares	59,15,73,294.00	23-11-2015
13	23-02-2016	638570 equity shares	40,00,00,248.00	17-03-2016
	Total		322,84,08,105.98	

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 two days to one month and twelve days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 1, 9, 10 and 11, 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.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 2355/22.07.410/2018-19 dated January 17, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr.



Tejus Chandra, Chief Financial Officer, Ms. Madhuri Jethani, Senior Executive – Secretarial, and Ms. Shraddha Jain, Executive – Secretarial, who appeared for the personal hearing on January 23, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 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.

6. 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 **₹90,16,04,607.00**, and the period of delay ranges from one day to three years eight months and twenty one days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to allotment of shares prior to receipt of inward remittances, and allotment of shares beyond 180 days from the date of receipt of inward remittances, without prior approval from Reserve Bank of India, as detailed in paragraph 3 above. The total amount of contravention is **₹23,03,375.00**, and the period of delay ranges from seven days to eight months and twenty four days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to person/s resident outside India, as detailed in paragraph 4



above. The contravention relates to an amount of **₹31,24,65,920.00**, and the period of delay ranges from two days to one month and twelve days.

7. It has been declared in the compounding application dated October 09, 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 undertaking, 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.

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 **₹1,85,443.00, (Rupees One Lakh Eighty Five Thousand Four Hundred and Forty Three only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) 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 **₹1,85,443.00, (Rupees One Lakh Eighty Five Thousand Four Hundred and Forty Three 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 Twenty Third day of January, 2019.

Sd/-

(P J Thomas)
Regional Director, Karnataka and
Chief General Manager, Bengaluru