



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

B Sarangi
Deputy General Manager

Date: December 28, 2017
C.A.737/2017

In the matter of

M/s.Elite Screens India Pvt Ltd.,
No.17, Emperor City,
Vadamadurai-Pannimadai Road,
Coimbatore- 641 017

(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 November 10, 2017(received at Reserve Bank on November 14, 2017) 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) allotment of shares to third parties against import payables without prior approval of Foreign Investment Promotion Board (FIPB), and (ii) delay in submission of Form FC-



GPR on allotment of shares with Reserve Bank, in terms of Paragraph 3 and Paragraph 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 3, 2000.

2. The relevant facts of the case are as follows: The applicant company was incorporated on March 15, 2013 under the provisions of the Companies Act, 1956 (Registration No. U74900TZ2013PTC019273) and is engaged in business of other non-specialised wholesale trade n.e.c. (import and whole sale trading of screens). The applicant allotted shares to i) M/s J & H manning LLC, USA ii) Able Smart Worldwide Ltd., Taiwan against import payables made by them to M/s Elite Screens China Corp, China from which the applicant purchased projection screens without prior approval of FIPB as detailed below:

Sl. No.	No. of shares allotted	Face Value (inRs.)	Amount (INR)	Date of allotment of shares	Date of FIPB Approval
1	23500	100	23,50,000	02.05.2013	10.05.2016

The applicant was accorded post-facto approval by FIPB as indicated above with delay of three years eight days approximately. Whereas, in terms of paragraph 3 of Schedule I to Notification No.FEMA 20/2000-RB, an Indian company which is otherwise not eligible to issue shares to a person resident outside India, may issue shares to a person resident outside India provided it has secured prior approval of Secretariat for Industrial Assistance or, as the case maybe of the Foreign Investment Promotion Board of the Government of India and the terms and conditions of such an approval are complied with.

3. The company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (inRs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	23500	100	23,50,000	02.05.2013	28.02.2014



The applicant filed form FC-GPR as indicated above with delay of eight months 26 days approximately beyond the prescribed limit in respect of the allotment. 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.

4.The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated December 23, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant did not appear for the personal hearing on the said date. The applicant had admitted the contraventions as stated in para 2 and 3 above for which compounding has been sought and had requested 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 in this context by the applicant as well as other documents on record.

5. It has been declared in the compounding application dated November 10, 2017 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 10, 2017 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. I have given my careful consideration to the documents on record and submissions 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 3 of Schedule 1 to Notification No. FEMA 20/2000-RB due to allotment of shares to third parties against import payables without prior approval of FIPB as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 23,50,000/-with the duration of contravention being three years eight daysapproximately;and

(b) Paragraph 9 (1) B of Schedule 1 to Notification No.FEMA 20/2000-RB due to delay in submission of Form FC-GPRto the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 23,50,000/- with the duration of contraventionbeing eight months 26 days approximately.

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 **Rs. 77,150/-** (Rupees seventy seven thousand one hundred and fiftyonly) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs3 and9 (1) Bof Schedule 1 to Notification No. FEMA 20/2000-RB,by the applicant on the factsdiscussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. **77,150/-** (Rupees seventy seven thousand one hundred and fifty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, RajajiSalai, Chennai-600001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai within a period of **15 days** from thedate of this order.



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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 Twenty eighth day of December, 2017.

Sd/-

B Sarangi
Deputy General Manager