



In the

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

Present

**Shri Anup Kumar**  
**General Manager**

Date: December 15, 2017  
**C.A. BGL 249/2017**

In the matter of

**M/s Durag India Instrumentation Private Limited**  
#27/30, 2<sup>nd</sup> Main Road  
Industrial Town, Rajajinagar  
Bengaluru 560 044  
**(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 June 09, 2017, received at this Office of Reserve Bank of India, Bengaluru on August 31, 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) delay in reporting receipt of foreign inward remittance towards subscription to equity, and (ii) delay in submission of Form FC-GPR to the Reserve Bank, after issue of shares to a person 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: M/s Durag India Instrumentation Private Limited, was incorporated on April 26, 2006, under the Companies Act, 1956. The Company is mainly engaged in the business of manufacture of emission monitoring systems and combustion control equipments. The applicant had received funds towards share application money from foreign investor, namely, M/s Durag GMBH, Germany, as shown below:

**Table -1**

<b>Sr. No.</b>	<b>Date of Receipt</b>	<b>Total Amount (INR)</b>	<b>Date of Reporting to RBI / AD Bank</b>
1	25-07-2006	30,00,000.00	31-01-2008
2	02-05-2011	60,00,000.00	29-07-2011
	<b>Total</b>	<b>90,00,000.00</b>	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from one month and twenty eight days to one year, five months and seven days approximately, beyond the stipulated period of 30 days, in respect of all remittances as indicated in 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 allotted equity shares and filed Form FC-GPR with Reserve Bank/AD Bank as indicated below:



**Table-2**

<b>Sl. No.</b>	<b>Date of Allotment</b>	<b>Amount (INR)</b>	<b>Date of reporting to RBI/AD Bank</b>
1	26-04-2006	9,99,900.00	29-06-2007
2	15-12-2006	20,00,000.00	31-01-2008
3	26-09-2011	60,00,000.00	03-11-2011
	<b>Total</b>	<b>89,99,900.00</b>	

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 eight days to one year, one month and three days approximately, beyond the prescribed period of 30 days, in respect of all allotments indicated in 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 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.1994/22.07.576/2017-18 dated December 04, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Shri Jayarama N, Chief Finance Officer and Shri K Rajashekar, Company Secretary, who appeared for the personal hearing on December 05, 2017, 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 **Rs.90,00,000.00**, and the period of delay ranging from one month and twenty eight days to one year, five months and seven days approximately; 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 persons resident outside India. The contravention relates to an amount of **Rs.89,99,900.00**, and the period of delay ranging from eight days to one year, one month and three days approximately.

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 contraventions are to be compounded and I consider that an amount of **Rs.29,370.00 (Rupees Twenty Nine Thousand Three Hundred and Seventy only)**, will meet the ends of justice.

7. 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 **Rs.29,370.00 (Rupees Twenty Nine Thousand Three Hundred and Seventy only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> 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 Fifteenth day of December, 2017.

Sd/-

**(Anup Kumar)**  
**General Manager**