



In the

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

Present

R Kesavan
Chief General Manager

Date : February 06, 2018
C.A.757/2017

In the matter of

M/s. Egger Pumps India Pvt Ltd.
SF 206, Kannampalayam PO,
Via Sulur, Coimbatore- 641 402

(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 January 04, 2018 (received at Reserve Bank on January 11, 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 of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares to



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Reserve Bank and (iii) allotment of shares prior to receipt of full consideration in terms of Paragraph 9 (1) A, 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 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 company was incorporated on March 31, 2005 under the provisions of the Companies Act, 1956 (Registration No. U29120TZ2005PTC011690) and is engaged in business of manufacture of pumps, compressors, taps and valves. The applicant received foreign inward remittances from (i) M/s. Emile Egger & CIE SA, Switzerland (ii) M/s Sanfi SA, Switzerland towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

| Sl. No | Amount of Foreign Inward Remittance ₹ | Date of receipt | Reported to RBI on |
|--------|--|-----------------|--------------------|
| 1 | 73,75,230.00 | 25.04.2005 | 04.07.2005 |
| 2 | 45,63,269.65 | 08.11.2005 | 26.10.2009 |
| 3 | 78,26,368.01 | 03.07.2007 | 25.03.2008 |
| 4 | 27,72,181.22 | 21.10.2016 | 18.08.2017 |
| 5 | 88,414.56 | 20.07.2017 | 20.11.2017 |

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from one month nine days to three years 10 months 18 days approximately beyond the stipulated time of 30 days in respect of the remittances. 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.



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

| Sl. No. | No. of share allotted | Face Value ₹ | Amount ₹ | Date of allotment of shares | Reported to RBI on |
|---------|-----------------------|--------------|----------------|-----------------------------|--------------------|
| 1 | 1000 | 10000 | 1,00,00,000.00 | 07.06.2005 | 04.07.2005 |
| 2 | 450 | 10000 | 45,00,000.00 | 25.03.2006 | 26.10.2009 |
| 3 | 811 | 10000 | 81,10,000.00 | 30.01.2008 | 25.03.2008 |
| 4 | 1739 | 10000 | 2,15,79,998.77 | 21.09.2011 | 16.02.2012 |

The applicant filed the form FC-GPR as indicated above with delay ranging from 25 days to three years six months one day approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos.2 to 3. 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 company allotted 1000 and 811 shares of ₹ 10,000/- each on 07.06.2005 and 30.01.2008 respectively. Parts of the consideration towards the above allotments were received as detailed below:

| Sl. No. | Date of receipt | Amount (INR) | Date of allotment |
|---------|-----------------|--------------|-------------------|
| 1 | 21.10.2016 | 26,24,770.00 | 07.06.2005 |
| 2 | 21.10.2016 | 1,47,411.22 | 30.01.2008 |
| 3 | 20.07.2017 | 72,951.12 | 30.01.2008 |

The company received part of the inward remittances towards the above allotments with delay ranging from eight years eight months 21 days to 11 years four months 15 days approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant vide letter dated January 04, 2018 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in



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support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 to 4 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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.

6. It has been declared in the compounding application dated January 04, 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 declaration dated January 04, 2018 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.

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) A of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 2,26,25,463.44 with duration of contravention ranging from one month nine days to three years 10 months 18 days approximately;



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(b) Paragraph 9 (1) B of Schedule 1 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 ₹ 3,41,89,998.77 with the duration of contravention ranging from 25 days to three years six months one day approximately; and

(c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to allotment of shares prior to receipt of full consideration. The contravention relates to an amount of ₹ 28,45,132.34 with the duration of contravention ranging from eight years eight months 21 days to 11 years four months 15 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 ₹ 1,48,904/- (Rupees one lakh forty eight thousand nine hundred and four only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 of Schedule 1 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 ₹ 1,48,904/- (Rupees one lakh forty eight thousand nine hundred and four only) which shall be deposited by the 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.



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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 Sixth day of February, 2018.

Sd/-

R Kesavan
Chief General Manager