



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: January 16, 2018  
C.A. HYD 256

In the matter of

M/s. Babji Realtors Private Limited  
Level 1, Merchant Towers  
Road No.4, Banjara Hills  
Hyderabad-500082  
Telangana

**(Applicant)**

In exercise of the powers conferred under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made there under, I pass the following

**Order**

The applicant has filed the compounding application dated October 17, 2017 received by us on October 25, 2017 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances; (ii) delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares towards subscription to equity and (iii) neither the shares were issued nor amount refunded to the person resident outside India in terms of Paragraph 9(1)(A), Paragraph 9(1)(B)



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and Paragraph 8 respectively of Schedule 1 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 3rd May 2000 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:

- a) The applicant is a resident company originally incorporated as a Private Limited company under the Companies Act, 1956 on December 01, 2004 (CIN: U45200TG2004PTC044734). The company is engaged in the business of Construction of buildings carried out on own-account basis or on a fee or Contract basis.
- b) The applicant had received foreign inward remittances from single foreign investor towards advance for subscription to equity shares as indicated below:-

Sl. No.	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	CapitalRetail Hyderabad Mall (Mauritius) Ltd	24500000	25-03-2009	20-05-2009
2	CapitalRetail Hyderabad Mall (Mauritius) Ltd	463856033	29-01-2009	11-02-2009
3	CapitalRetail Hyderabad Mall (Mauritius) Ltd	29400000	21-12-2011	01-02-2012
4	CapitalRetail Hyderabad Mall (Mauritius) Ltd	29400000	13-01-2012	29-02-2012
5	CapitalRetail Hyderabad Mall (Mauritius) Ltd	66150000	26-02-2013	17-04-2013
6	CapitalRetail Hyderabad Mall (Mauritius) Ltd	73500000	11-06-2014	08-08-2014
	<b>Total</b>	<b>68,68,06,033</b>		



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The applicant reported receipt of remittances towards share subscription amounting to ₹68,68,06,033/- to the Regional Office of Reserve Bank of India on dates indicated as above out of which remittances amounting to ₹22,29,50,000/- were reported with a delay ranging from 12 days to 28 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

c) The company allotted shares and filed form FC-GPRs as indicated below:-

S N	Name of Investor	Date of allotment of shares	Number of shares/debentures allotted	Amount for which shares allotted (INR)	Date of reporting
1	CapitalRetail Hyderabad Mall (Mauritius) Ltd	04.06.2009	1039500 Equity	463856030	24.06.2009
2	CapitalRetail Hyderabad Mall (Mauritius) Ltd		2285603 CCDs		
3	CapitalRetail Hyderabad Mall (Mauritius) Ltd	15.09.2009	2450000 CCDs	24500000	14.10.2009
4	CapitalRetail Hyderabad Mall (Mauritius) Ltd	13.06.2012	2940000 CCDs	29400000	13.07.2012
5	CapitalRetail Hyderabad Mall (Mauritius) Ltd	10.07.2012	2940000 CCDs	29400000	28.08.2012



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6	CapitalRetail Hyderabad Mall (Mauritius) Ltd	22.08.2013	6615000 CCDs	66150000	24.09.2013
			<b>Total</b>	<b>61,33,06,030</b>	

The applicant filed form FC-GPRs for the allotment of shares/CCDs amounting to ₹61,33,06,030/- as indicated above out of which CCDs amounting to ₹9,55,50,000/- were reported with delays ranging from 3 days to 19 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB, 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 person resident outside India.

e. The company has delayed in refund of the share application money to the non-resident investors beyond the prescribed limit of 180 days from the date of receipt of remittance as shown below:-

S No	Name of the Remitter	Date of receipt of funds	Date of seeking RBI approval for Refund	Amount of Refund
1	Capital Retail Hyderabad Mall (Mauritius) Ltd	11.06.2014	19.05.2015	73500000
			<b>Total</b>	<b>7,35,00,000</b>

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of



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receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13<sup>th</sup> November, 2007 in the official Gazette of the Govt. of India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1205/14.66.003/2017-18 dated January 05, 2018 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on January 10, 2018 during which Shri Pavan Kumar Konanki, Authorized representative of the company and Shri Sridhar M, Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing, it was submitted that the delay was due to their administrative delays but was not wilful or with malafide intention. In view of the foregoing, the representative of the applicant 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 the submissions made in this context by the applicant during the personal hearing.



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4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to ₹22,29,50,000/- and the delay ranges from 12 days to 28 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares/CCDs to persons resident outside India and the contravention relates to an amount of ₹9,55,50,000/- and the period of contravention ranges from 3 days to 19 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of unallotted share application money and the contravention relates to an amount of ₹7,35,00,000/- and the delay is 5 months 11 days approximately.

5. It has been declared in the compounding application dated 17.10.2017 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 17.10.2017 furnished with the compounding application that the applicant was not under any investigation 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. 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 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.



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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 contravention is to be compounded and I consider that an amount of **₹4,23,750/- (Rupees Four Lakhs Twenty Three Thousand Seven Hundred Fifty Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 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 **₹4,23,750/- (Rupees Four Lakhs Twenty Three Thousand Seven Hundred Fifty Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 16<sup>th</sup> day of January 2018

Sd/-

(R. Subramanian)  
Regional Director