



In the

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

Present

P.Ramesh
Assistant General Manager

Date: February 23, 2018
C.A.764/2017

In the matter of

M/s. Bhandari Foundations Pvt Ltd.
K-34, 1st Sector, 10th Street,
Ambattur Industrial Estate,
Chennai-600 058.

(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 December 13, 2017 (received at Reserve Bank on February 05, 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 submission of Form FC-GPR on allotment of shares with Reserve Bank and



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(ii) delay in allotment of shares, in terms of Paragraphs 9 (1) B and 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 then applicable (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 May 04, 2010 under the provisions of the Companies Act, 1956 (Registration No: U45200TN2010PTC075556) and is engaged in the business of construction of buildings carried out on own-account basis or on a fee or contract basis. The applicant received a foreign inward remittance of ₹ 8,75,550/- on 03.06.2010 from Mr. Praveen Bhandari, USA towards subscription to equity shares and reported the same to Reserve Bank.

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

Sl. No.	No. of shares	Face Value (in Rs.)	Amount (INR)	Date of allotment	Reported to RBI on
1.	8755	10	8,75,500.00	24.10.2011	23.02.2017

The applicant filed form FC-GPR as indicated above with delay of five years three months approximately beyond the prescribed limit in respect of 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 company allotted shares against the remittance received as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment of shares
1.	03.06.2010	8,75,500.00	24.10.2011

The company allotted shares with delay of 10 months 21 days approximately beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP



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(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 was given an opportunity for personal hearing vide Reserve Bank's mail dated February 16, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on February 21, 2018 during which Smt S Muthulakshmi, Finance Manager and Shri M Damodaran, Practicing Company Secretary represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 and 3 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they 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 as well as other documents and submissions made in this context by the applicant during the personal hearing.

6. It has been declared in the compounding application dated December 13, 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 December 13, 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.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing.



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Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) 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 and the contravention relates to an amount of ₹ 8,75,500/- with duration of contravention being five years three months approximately; and
- (b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with para 5 of AP (DIR Series) Circular No.20 dated December 14, 2007 due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 8,75,500/- with the duration of contravention being 10 months 21 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 ₹ 56,034/- (Rupees fifty six thousand and thirty four only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 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 ₹ 56,034/- (Rupees fifty six thousand and thirty 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 Twenty third day of February, 2018.

Sd/-

P Ramesh
Assistant General Manager