



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shishir Kumar
Deputy General Manager

Date: February 20, 2018

C.A. No. 718/2017

In the matter of

Magicrot Industrial Services Private Limited
D-209, Tower No. 7
Belapur Station Complex
CBD Belapur
Navi Mumbai- 400 614

(Applicant)

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

Order

1. The applicant has filed the compounding application dated September 21, 2017 (received at the Reserve Bank of India on September 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 remittance towards subscription to equity and (ii) delay in submission of Form



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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 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 May 3, 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: The applicant company was incorporated on August 2, 2011 under the Companies Act, 1956. Its main activity is 1) to carry on in India and abroad, the business of Industrial and mechanical Service Provider, and to act as Engineers in various disciplines, including Industrial and Mechanical Engineers, Service Engineers, Service Providers, Consulting Engineers, Surveyors, Architects, Valuers, Designers, Consultants for maintenance, Renovation, Restoration, Rehabilitation, Construction, Designers, Supervisors, Overseers, Managers for industrial operations, Research, Technical and projects; Carrying out various study, Testing, Valuation, Appraisal of plants and machinery and other mechanical articles, Technical and Engineering management consultancy services, Managing, Designing maintaining and servicing any plants, Sites, Projects, Industrial and heavy industrial plants and complexes, Automobile plants, Mines, power plants, Shipping, Commercial, Technical, Defense, Public utilities and the like. 2) to undertake, implement and execute all kind of industrial and mechanical services, engineering consultancy services in all fields of engineering and in particular (but not limited to), services relating to mechanical decoking/pigging, steam/air decoking, high pressure waterjetting, internal inspection, decontamination, chemical cleaning, hydrokinetic and pneumatic cleaning and other similar services, using various tools, equipments and machineries. 3) to render technical, maintenance and other related services to heavy and large industries, and to supply and make available to them information concerning building, architects, engineering, electrical and mechanics, commercial knowledge, experience or skill in return for fees, royalty, commission or any similar payment and to enter into agreements in this behalf. 4) to act as contractors, facilitators, providers of convenience of all kinds and



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to assist, advise, consult, engineer, supervise, facilitate, construct, equip, maintain, work, purchase, buy sell, give or take on hire or charter, all kinds and types of engineering equipments, instruments, tools, gadgets, basic components meters, system and like and to make, work, equip and maintain them.

3. The applicant received foreign inward remittances from Silkstone Enterprises Limited, Cyprus towards equity / preference share capital and reported the same to the Reserve Bank of India as indicated below.

Sr. No.	Amount in Rs.	Date of receipt	Date of reporting
1	99,990	27-03-2012	22-07-2013
2	4,00,000	02-02-2013	16-08-2013
3	32,00,000	12-02-2013	04-09-2013
Total	36,99,990		

The applicant reported receipt of remittances to the Reserve Bank of India with a delay ranging from 5 months 15 days to 1 year 2 months 26 days approximately, in respect of remittances from serial no. 1 to 3 above. 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 foreign inward remittances 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

Sr. No.	No of Shares	FV in Rs.	Amount in Rs.	Date of allotment	Date of reporting
1	9,999	10	99,990	30-03-2012	24-08-2016
2	40,000	10	4,00,000	06-02-2013	06-10-2016
3	3,20,000	10	32,00,000	13-02-2013	06-10-2016
		Total	36,99,990		

The applicant filed form FC-GPR as indicated above with a delay ranging from 3 years 6 months 24 days to 4 years 3 months 25 days approximately,



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at serial No. 1 to 3 above. 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 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.

5. The applicant was given an opportunity for personal hearing vide e-mail dated February 1, 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 7, 2018 during which Shri Kamal Sharma, Chartered Accountant represented the applicant. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

6. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. 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 the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.36,99,990/- (Rupees Thirty Six Lakh Ninety Nine Thousand Nine Hundred Ninety only) and the delay ranging from 5 months 15 days to 1 year 2 months 26 days approximately.



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(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.36,99,990/- (Rupees Thirty Six Lakh Ninety Nine Thousand Nine Hundred Ninety only) and the delay ranging from 3 years 6 months 24 days to 4 years 3 months 25 days approximately.

7. It has been declared in the compounding application dated September 21, 2017 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated February 7, 2018 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. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. 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.

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 Rs.39,860/- (Rupees Thirty Nine Thousand Eight Hundred Sixty only) will meet the ends of justice.



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9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.39,860/- (Rupees Thirty Nine Thousand Eight Hundred Sixty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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.

10. The above order is passed only in respect of contraventions of para 9(1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: February 20, 2018.

Compounding Authority

Sd/-

(Shishir Kumar)

Deputy General Manager