



**In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
20 EDC Complex, Patto Plaza,
Panaji 403 001, Goa, INDIA**

Present

**Shri Shekhar Bhatnagar
Chief General Manager**

Date: February 21, 2018

CA No: PAN 8

In the matter of

M/s Franstek Belts Pvt Ltd

Regd. Office: Plot No C-17, Phase 1-A

Verna Industrial Area, Verna, Goa 403722

(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 September 28, 2017 (received at Reserve Bank of India, Panaji on October 5, 2017) for compounding of contravention 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; (ii) delay in submission of Form FC-



GPR to the Reserve Bank after issue of shares to a person resident outside India and delay in refund of share application money beyond 180 days in terms of paragraphs 9(1)(A), 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 3rd May 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:

- i) The applicant is a company registered as a private limited company, incorporated on July 07, 2013 under the Companies Act, 1956 (CIN: U29220GA2013PTC007266) with the main object of undertaking the business of holiday homes and other related activities.
- ii) The applicant received foreign inward remittances towards issue of equity shares as detailed below:

Sr. No.	Name of Remitter	Amount (Rs.)	Date of Receipt	Reported to RBI on
1	Movemax AG	21,102.50	23-08-2013	15-10-2013
2	Chiorino S.P.A.Corp	30,000.14	04-09-2013	11-11-2013
3	Movemax AG	20,00,000.65	20-09-2013	15-10-2013
4	Chiorino S.P.A.Corp	30,00,000.16	20-09-2013	24-04-2014
5	Chiorino S.P.A.Corp	30,00,000.00	05-11-2013	11-12-2013
6	Movemax AG	20,00,002.12	06-11-2013	11-12-2013
7	Movemax AG	20,00,016.00	21-03-2014	12-05-2014
8	Chiorino S.P.A.Corp	30,00,024.00	21-03-2014	12-05-2014
9	Chiorino S.P.A.Corp	30,00,001.20	29-05-2014	14-06-2014
10	Movemax AG	20,00,001.08	29-05-2014	14-06-2014
11	Movemax AG	20,00,000.92	22-03-2016	24-03-2017
12	Chiorino S.P.A.Corp	30,00,000.00	05-04-2016	24-03-2017
	TOTAL	2,50,51,148.77		



The applicant reported receipt of remittances to the Foreign Exchange Department, Panaji Office of the Reserve Bank on the dates indicated above with a delay ranging from 4 days to 11 months 2 days approximately, in respect of remittances received on 9 occasions, beyond the stipulated time of 30 days. 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.

- iii) The applicant allotted equity shares and filed FC-GPRs as indicated below:

Sr. No.	No. of Shares	Amount (Rs.)	Date of allotment	Reported to RBI on
1	5,000	50,000.00	18-02-2014	14-06-2014
2	10,00,000	1,00,00,000.00	18-03-2014	14-06-2014
3	9,95,000	99,50,000.00	29-09-2014	06-12-2014
4	5,00,000	50,00,000.00	19-03-2016	21-06-2017
		2,50,00,000.00		

The applicant filed Form FC-GPR in respect of shares allotted with a delay ranging from 01 months 07 days to 1 year 02 months 1 day approximately on 4 occasions, beyond the stipulated time of 30 days. 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.



- iv) The company had received the inward remittances towards FDI and allotted shares after the prescribed period of 180 days as detailed below –

Sr. No.	Name of Remitter	Amount (in ₹)	Date of Credit	Date of Refund
1	Movemax AG	20,000.00	29-05-2014	26-02-2015
2	Chiorino S.P.A.Corp	30,000.00	29-05-2014	26-02-2015
	Total	50,000.00		

The company has refunded the excess share application money with delay of 3 months approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, the shares have to be issued and / or amount refunded within 180 days from the date of receipt of the inward remittance.

3. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter no. PNJ.FED: 406 / 02.01.928 / 2017-18 January 30, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide e-mail dated January 31, 2018 chose not to appear for the personal hearing as per the option available to them. The applicant, in the compounding application, had admitted the contravention as stated above for which compounding has been sought. It had been submitted that the delays were 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.

4. It has been declared in the compounding application dated September 28, 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 nil (received in this office on February 7, 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.

5. I have given my careful consideration to the documents on record and in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of:

- (i) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs.1,80,51,145.84** and the duration of delay ranges from 04 days to 11 months 02 days approximately.
- (ii) 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 and the contravention relates to an amount of **Rs.2,50,00,000.00** and the duration of delay ranges from 01 months 07 days to 01 year 02 months 1 day approximately.
- (iii) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares. The contravention relates to an amount of **Rs.50,000.00** and the duration of contravention is 3 months 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.50,990/- (Rupees Fifty Thousand Nine Hundred Ninety only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule I 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 **Rs.50,990/- (Rupees Fifty Thousand Nine Hundred Ninety only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC, Patto Plaza, Panaji, Goa 403 001 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.

The application is disposed of accordingly.

Dated this the 21st day of February, 2018

Sd/-

(Shekhar Bhatnagar)
Chief General Manager