



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department

Central Office Cell, 2nd floor

6, Sansad Marg

New Delhi - 110 001

Present

**Shri Shekhar Bhatnagar**

**Chief General Manager-in-Charge**

Date: March 12, 2018

C.A. No.73 /2017

In the matter of

**Hirose Electric Singapore Pte. Ltd.**

Unit No. 403 4<sup>th</sup> Floor, Commercial Complex,

Barton Centre, No. 84, M.G Road, Bangalore - 560001

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

**Order**

The Company, Hirose Electric Singapore Pte Ltd., has filed an application dated September 11, 2017 (received in RBI on September 18, 2017) for compounding of contraventions of the provisions of Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded relate to establishment in India of additional Liaison Office at Noida without RBI permission, in contravention of the provisions under Regulations 3 and



5(i) of Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 notified vide Notification No. FEMA 22/2000-RB dated May 03, 2000, as amended from time to time (hereinafter referred to as FEMA 22 *ibid.*).

2. The relevant facts of the case are as follows:

- a. Hirose Electric Singapore Pte. Ltd. was granted permission to establish a Liaison Office in India at Bangalore (Nodal Office) and New Delhi as an additional Liaison Office) vide Reserve Bank approval letter No.FE.CO.FID/14278/10.97.440/2010-11 dated December 15, 2010. In terms of RBI approval, the offices were opened in Bangalore and New Delhi. Permission for the first extension of Liaison Office (LO) valid up to December 14, 2016 was granted by Standard Chartered Bank vide their letter dated December 05, 2013 and further extension up to December 14, 2017 was given by Sumitomo Banking Corporation vide their letter dated January 02, 2017.
- b. Subsequently, the company also opened a Liaison Office at Noida, Uttar Pradesh in May 2014 without obtaining prior approval from Reserve Bank, thereby, contravening terms and conditions (para 3) of RBI approval letter dated December 15, 2010 which is construed as contravention of Regulation 3 & 5(i) of Notification No. FEMA 22/2000-RB dated May 3, 2000. All the operations were routed through the Noida Office (which was in operation without RBI permission) instead of New Delhi office, which was also maintained in terms of RBI approval.
- c. The Liaison Office at Noida has not earned any income and incurred total expenditure of Rs.1,70,65,259/- (Rs One crore seventy lakh sixty five thousand two hundred and fifty nine rupees only) for the period between May 1, 2014 and August 10, 2017.
- d. The Liaison Office noticed non-compliance and suo motu submitted application to Reserve Bank of India for post facto approval for regularization of the contravention.



- e. The post facto approval for opening Liaison Office at Noida has been granted vide Reserve Bank letter No. FE.CO.FID/151/10.97.440/2016-17 dated August 10, 2017 subject to compounding of contravention.
- f. The amount and period of contravention is as follows:
  - a) **Amount:** Rs.1,70,65,259/- (Rupees One crore seventy lakh sixty five thousand two hundred and fifty nine only), i.e., the expenditure incurred between May 1, 2014 and August 10, 2017.
  - b) **Period:** 3 years 3 months and 10 days i.e. from May 1, 2014 to August 10, 2017(date of regularization)

3. The company has contravened Regulation 3 and 5(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 notified vide Notification No. FEMA.22 /2000-RB dated May 03, 2000, as amended from time to time. Regulation 3 of FEMA 22 ibid., states that no person resident outside India shall, without prior approval of the Reserve Bank, establish in India a branch or a liaison office or a project office or any other place of business by whatever name called. Further, Regulation 5(i) of notification No. FEMA 22 ibid., states that a person resident outside India desiring to establish a branch or Liaison Office in India shall apply to the Reserve Bank, in form FNC 1. In the instant case, the company established its Liaison Office at Noida, Uttar Pradesh without prior approval of Reserve Bank.

The aforementioned contravention has been regularized by RBI vide letter FE.CO.FID/151/10.97.440/2016-17 dated August 10, 2017, subject to compounding of contraventions.

4. The applicant was given an opportunity for personal hearing vide email dated March 8, 2018 for further submission in person and /or producing documents, if any, in support of the application. Company's representative Mr Satyajit Joshi and Mr Ashish Sharma appeared representing the applicant, for the personal hearing on March 12, 2018. The representatives of the applicant admitted the contraventions committed by the applicant for which they have sought compounding and submitted that the contravention was not intentional and requested to take a lenient view.



It has been declared in the compounding application dated September 11, 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 undertaking dated September 11, 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. 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. The application for compounding is, therefore, being decided on the basis of the averments/submission made in the application as well as other documents and also submissions made in this context by Mr Satyajit Joshi and Mr Ashish Sharma during the personal hearing.

5. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the provisions of Regulation 3 and 5(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 notified vide Notification No. FEMA.22 /2000-RB dated May 03, 2000, as amended from time to time. The contravention amount [i.e the expenditure incurred between May 1, 2014 and March 31, 2017], therefore, comes to Rs.1,70,65,259.00 (Rupees One crore seventy lakh sixty five thousand two hundred and fifty nine only) and the period of contravention stands at 3 years 3 months and 10 days (i.e., from the date of opening of additional Liaison office, to the date of regularization).

6. In terms of Section 13 of the FEMA, 1999, 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, after considering the submissions made by the applicant and the entire facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider



that payment of an amount of Rs.1,06,793/-(Rupees One lakh six thousand seven hundred and ninety three only) will meet the ends of justice in the circumstances of this case.

6. Accordingly, I compound the admitted contraventions namely, the contravention of Regulation 3 and 5(i) of Foreign Exchange Management (Establishment in India of Branch or Office or Other place of Business) Regulations, 2000, notified vide Notification No. FEMA.22/2000-RB dated May 03, 2000, as amended from time to time, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.1,06,793/-(Rupees One lakh six thousand seven hundred and ninety three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 2<sup>nd</sup> Floor, 6, Sansad Marg, New Delhi – 110 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Delhi 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 03, 2000, as amended from time to time, shall apply.

The application is disposed accordingly.

Dated this the 12<sup>th</sup> day of March 2018.

Sd/-

**(Shekhar Bhatnagar)**

**Chief General Manager-in-Charge**