



In the

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

Present

**Arundhati Mech**  
**Regional Director**

Date : March 08, 2018  
**C.A.736/2017**

In the matter of

**M/s. Amika Hotels Madurai Pvt Ltd.,**  
New No.11, Old No. 6, 1st Floor,  
Karpagam Gardens,  
1st Main Road, Adyar,  
Chennai- 600 020

**(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 November 10, 2017 (received at Reserve Bank on November 14, 2017 ) 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 reporting of inflow of funds received from a person resident outside India for



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allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares to Reserve Bank and (iii) allotment of shares against remittance received in the account of a third party in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 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 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 October 05, 2012 under the provisions of the Companies Act, 1956 (Registration No. U55101TN2012PTC087940) and is engaged in business of restaurant and bar activities connected to transportation, when carried out by separate units. The applicant received foreign inward remittances from i) Mr. S Bremakumar, UK ii) Mr. Michael Patrick Morgan, UK iii) M/s Hasting Trading Servicos LDA, Portugal iv) M/s Mascons 1935 Ltd., Seychelles towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance in ₹	Date of receipt	Reported to RBI on
1	1,16,74,670.00	17.08.2012	11.09.2012
2	55,12,713.00	06.11.2012	19.11.2012
3	40,54,601.00	05.03.2013	25.03.2013
4	11,00,570.00	30.05.2013	05.05.2014
5	1,75,80,085.25	12.12.2013	28.03.2014
6	48,22,200.00	02.02.2016	15.02.2018
7	1,49,17,500.00	21.03.2016	23.01.2018
8	24,69,600.00	07.11.2016	12.09.2017
9	12,67,350.00	30.01.2017	17.01.2018
10	16,89,800.00	30.01.2017	12.09.2017
11	12,56,850.00	31.01.2017	17.01.2018
12	24,41,700.00	02.03.2017	03.07.2017
13	8,00,600.00	21.03.2017	03.07.2017
14	16,14,400.00	17.03.2017	03.07.2017
15	24,19,200.00	20.03.2017	03.07.2017
16	8,06,400.00	20.03.2017	19.07.2017
17	8,13,000.00	23.03.2017	04.07.2017
18	16,07,000.00	30.03.2017	04.07.2017



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19	8,03,500.00	30.03.2017	19.07.2017
20	8,03,000.00	05.04.2017	04.07.2017
21	8,03,000.00	05.04.2017	03.07.2017
22	8,07,000.00	06.04.2017	03.07.2017
23	7,94,700.00	10.04.2017	04.07.2017
24	41,81,500.00	19.05.2017	19.07.2017
25	41,09,500.00	31.05.2017	19.07.2017
26	40,96,500.00	16.06.2017	05.08.2017
27	41,21,000.00	28.06.2017	07.08.2017
28	41,85,000.00	26.07.2017	07.08.2017
29	40,85,000.00	24.08.2017	12.09.2017
30	43,07,000.00	04.10.2017	14.10.2017
31	42,45,000.00	09.11.2017	06.12.2017
32	42,79,000.00	24.11.2017	19.12.2017
33	42,77,500.00	28.11.2017	19.12.2017
34	43,94,500.00	18.01.2018	06.02.2018

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 10 days to one year 11 months 13 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sr. Nos. 4 to 27. 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.

3. The company allotted equity shares against remittances received up to 28.11.2017 and filed FC-GPR as indicated below:

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment of shares	Reported to RBI on
1	1167467	10	1,16,74,670.00	06.02.2013	19.05.2014
2	551271	10	55,12,710.00	07.02.2013	08.05.2014
3	401262	10	40,12,620.00	31.03.2013	05.05.2014
4	109954	10	10,99,540.00	30.05.2013	05.05.2014
5	1465000	10	1,75,80,000.00	13.02.2014	05.05.2014
6	731371	10	1,97,39,703.29	01.04.2016	23.01.2018
7	91501	10	24,69,611.99	15.11.2016	03.11.2017
8	575020	10	1,55,19,789.80	30.03.2017	03.11.2017
9	426036	10	1,14,98,711.64	01.06.2017	03.11.2017
10	459521	10	1,24,02,471.79	31.07.2017	03.11.2017
11	785233	10	2,11,93,438.67	14.12.2017	06.02.2018



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The applicant filed the form FC-GPR as indicated above with delay ranging from one month 22 days to one year eight months 22 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos.1 to 10. 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. The delay in filing of FC-GPR after allotment at Sr. No. 11 has been regularized by payment of Late Submission Fee in terms of FEMA 20(R) dated November 07, 2017.

4. The company allotted 1167467 equity shares of ₹10/- each on 06.02.2013 as detailed below:

Sl. No.	Date of Allotment	Amount (INR)	Date of Regularisation
1	06.02.2013	1,16,74,670.00	14.11.2017

The above amount was part of the remittance received from Mr. S Bremakumar in the account of a third party namely M/s Goldmarque Development Pvt Ltd. which was transferred to the applicant company. Reserve Bank had advised regularization by unwinding the transaction and bringing in the amount afresh. Had the applicant done as advised by Reserve Bank, it would have resulted in contravention of Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 i.e. allotment of shares prior to receipt of remittance. However, the company has informed that the investor had exited and hence the transaction could not be unwound. As such the duration of contravention calculated from the date of allotment of shares to the date of receipt of compounding application being four years nine months eight days approximately.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 05, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant did not appear for the personal hearing on the given date. The applicant, in the compounding application, had



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admitted the contraventions as stated in para 2 to 4 above for which compounding has been sought. It had been submitted that the delay was 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.

6. It has been declared in the compounding application dated November 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 November 10, 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. 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 delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 7,61,25,955.25 with duration of contravention ranging from 10 days to one year 11 months 13 days approximately;

(b) 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. The contravention relates to an amount of



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₹ 10,15,09,828.51 with the duration of contravention ranging from one month 22 days to one year eight months 22 days approximately; and

(c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to allotment of shares against remittance received in the account of a third party. The contravention relates to an amount of ₹ 1,16,74,670/- with the duration of contravention being four years nine months eight 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 ₹ 4,85,328/- ( Rupees four lakh eighty five thousand three hundred and twenty eight only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 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 ₹ 4,85,328/- ( Rupees four lakh eighty five thousand three hundred and twenty eight 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. 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 Eighth day of March, 2018.

Sd/-



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**Arundhati Mech**  
**Regional Director**