



In the

**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Shri Eugene E Karthak**  
**Regional Director**

Date: March 09, 2018  
**C.A. BGL 275/2017**

In the matter of

**M/s Prestige Garden Constructions Private Limited**  
The Falcon House, No.1  
Main Guard Cross Road  
Bengaluru - 560001  
**(Applicant)**

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

#### **ORDER**

The applicant has filed a compounding application dated December 12, 2017, received at this office of Reserve Bank of India, Bengaluru on December 21, 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 receipt of foreign inward remittances towards subscription to equity, (ii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, (iii) taking on record in its books by the applicant without prior approval, the transfer of shares by Resident to Non-Resident, in terms of paragraphs 9(1)(A) and 9(1)(B), respectively, of Schedule I and Regulation 4 of 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 03, 2000, and (iv) delay in reporting the transfer of shares by Resident to Non-Resident in terms of Regulation 10 A (b) (i)



read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB as amended vide AP (DIR Series) Circular No. 63 dated April 22, 2009.

2. The relevant facts of the case are as follows: M/s Prestige Garden Constructions Private Limited, was incorporated on April 15, 1996, under the Companies Act, 1956. The activity undertaken by the company is construction and development of retail malls. The applicant had received funds towards share application money from the foreign investors, namely, M/s Pinnacle Five Limited, Mauritius, and M/s CMIDF Bangalore Forum Value Mall (Singapore) Pte Limited, Singapore, as shown below:

**Table – 1**

<b>Sl. No</b>	<b>Date of Receipt</b>	<b>Amount (INR)</b>	<b>Date of Reporting to RBI /AD</b>
1	01-02-2008	5550,00,000.00	11-02-2008
2	30-08-2013	500,00,000.00	04-12-2013
3	25-11-2013	300,00,000.00	26-12-2013
4	10-07-2014	200,00,000.00	21-08-2014
5	09-06-2015	1100,00,000.00	24-10-2017
6	23-12-2015	200,00,000.00	27-01-2016
7	01-07-2016	1710,00,000.00	29-07-2016
8	29-11-2016	140,00,000.00	28-03-2017
	<b>Total</b>	<b>97,00,00,000.00</b>	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one day to two years three months and fifteen days approximately, beyond the stipulated period of 30 days in respect of remittances as indicated at serial number 2 to 6 and 8, in the Table-1 above. 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 had allotted equity shares to the foreign investors and filed Form FC-GPRs with Reserve Bank/AD Bank as indicated below:

**Table – 2**

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	01-02-2008	5549,99,504.60	28-02-2008
2	26-02-2014	800,00,000.00	30-08-2016
3	13-07-2014	200,00,000.00	30-08-2016
4	20-07-2015	1100,00,000.00	17-08-2015
5	30-01-2016	200,00,000.00	30-08-2016
6	01-07-2016	1710,00,000.00	05-10-2016
7	29-11-2016	140,00,000.00	21-09-2017
	<b>Total</b>	<b>96,99,99,504.60</b>	

The applicant had filed Form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from two months and four days to two years five months and two days approximately, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial number 2, 3, 5, 6 and 7, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to the Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

4. A resident shareholder of the applicant company, Ms Razia Sulaiman, Bangalore, had transferred 12,62,500 equity shares held by her in the company to a Non-Resident, M/s. CMIDF Bangalore Forum Value Mall (Singapore) Pte Ltd, Singapore, for an amount of Rs. 17,50,00,000/- on July 06, 2015. The details of the transaction are in the Table-3 below:



<b>No. of shares transferred</b>	<b>Amount of consideration received in Rs.</b>	<b>Date of transfer</b>	<b>Date on which transfer were taken on record by the company's account</b>	<b>Date on which post facto approval was given by RBI</b>
12,62,500	17,50,00,000.00	06-07-2015	06-07-2015	14-12-2017

The applicant company had taken on record, the said transfer of shares in the books of the company without obtaining prior approval from Reserve Bank of India, whereas in terms of Regulation 4 of Notification No. FEMA 20/2000- RB dated May 3, 2000, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such a person, provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books, transfer of security from or to such person, subject to such conditions as may be considered necessary. The amount of contravention is Rs. 17,50,00,000.00, and the period of contravention is 2 years 5 months and 8 days approximately.

5. The transfer of shares from Resident to Non-Resident as described in para 4 above was reported to the AD Bank on October 24, 2017, whereas as per Regulation 10 A (b) (i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB read with AP (DIR Series) Circular No. 63 dated April 22, 2009, the form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration which was received on May 21, 2015. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India. The Form FC-TRS was submitted to AD Bank, with a delay of two years three months and four days approximately, over and above 60 days stipulated period.



6. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 3303/22.06.687/2017-18 dated March 02, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. M Sridhar, Company Secretary, and Mr. Shreyas D, Assistant Company Secretary, who appeared for the personal hearing on March 07, 2018, admitted the contraventions as stated in paragraphs 2, 3, 4 and 5 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay in seeking approval or reporting was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they requested to take a lenient view in disposal of the application. 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 personal hearing and thereafter.

7. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in Paragraph 2 above. The contravention relates to an amount of **Rs.24,40,00,000.00**, and the period of delay ranges from one day to two years three months and fifteen days approximately;

(b) 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 person resident outside India as detailed in Paragraph 3 above. The contravention relates to an amount of **Rs.30,50,00,000.00**, and the period of delay ranges from two months and four days to two years five months and two days approximately.



(c) Regulation 4 of Notification No. FEMA 20/2000-RB, due to taking on record in its books by the applicant without approval, the transfer of shares by Resident to Non-Resident as detailed in Paragraph 4 above. The contravention relates to an amount of **Rs.17,50,00,000.00**, and the period of delay is two years five months and eight days approximately; and

(d) Regulation 10A (b)(i) read with Paragraph 10 of Schedule I to FEMA 20/2000-RB, due to delay in reporting of transfer of shares as detailed in Paragraph 5 above. The amount of contravention is **Rs.17,50,00,000.00**, and the period of delay is two years three months and four days approximately

8. It has been declared in the compounding application dated December 21, 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 undertaking dated February 12, 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 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.

9. 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.11,13,500 (Rupees**



**Eleven Lakh Thirteen Thousand and Five Hundred only**), will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, Regulation 4 and Regulation 10A (b)(i) read with para 10 of Schedule I of the Notification ibid, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **Rs.11,13,500 (Rupees Eleven Lakh Thirteen Thousand and Five Hundred only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru 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 Ninth day of March, 2018.

Sd/-

**(Eugene E Karthak)**  
**Regional Director**