



In the

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

Present

Ms. M Rama Kumari
Deputy General Manager

Date: March 09, 2018
C.A. BGL 270/2017

In the matter of

M/s Firmedge Plastic Manufacturing Private Limited
Nagadevi Industrial Estate, Survey No.63/2
Kacharkanahalli, HRBR 3rd Block
Bengaluru - 560084
(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 October 25, 2017, received at this office of Reserve Bank of India, Bengaluru on December 01, 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, and (ii) non-issue of equity instruments to the foreign investor, a person resident outside India, within 180 days of the receipt of the inward remittance, in terms of paragraphs 9(1)(A), 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 May 03, 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: M/s Firmedge Plastic Manufacturing Private Limited, was incorporated on September 02, 2010, under the Companies Act, 1956. The company is engaged in plastic business as manufacturers, producers, processors, importers, exporters, traders, retailers, wholesalers, suppliers, and also dealing in all kinds of plastic substances, plastic furniture manufacturers, whether natural or artificial, thermos plastics, plastic tapes, polypropylene and PVC Products, and goods and articles made from them, and compounds intermediaries, derivatives and by-products. The applicant had received funds towards share application money from the foreign investor, namely, Mr. Sarfaraz Nathoo, Canada, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	27-03-2012	15,21,453.34	29-11-2012
2	11-04-2012	9,99,727.52	29-11-2012
3	30-04-2012	5,14,524.84	29-11-2012
	Total	30,35,705.70	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from six months to seven months and three days approximately, beyond the stipulated period of 30 days in respect of all remittances as indicated in 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. For the foreign inward remittances received by the company as indicated in para 2 above, shares were allotted by the company to the investor on February 25, 2013, beyond the stipulated period of 180 days from the date of receipt of funds, without obtaining prior approval from Reserve Bank of India. Whereas, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB,



dated May 3, 2000, and as amended from time to time, read with A.P. (DIR Series) Circular No. 20 dated December 14, 2007, the shares have to be issued/amount refunded within 180 days of receipt of inward remittance. The amount of contravention is **Rs.30,35,705.70**, and the period of delay ranges from three months and twenty nine days to five months and two days approximately.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 3288/22.08.467/2017-18 dated March 01, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Mohammed Najeeb, Manager – Accounts & Finance, and Mr. Chetan Kumar A, Company Secretary, who appeared for the personal hearing on March 08, 2018, admitted the contraventions as stated in paragraphs 2, and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the contraventions were 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.

6. 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.30,35,705.70**, and the period of delay ranges from six months to seven months and three days approximately; and,



(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as the applicant had allotted shares to the foreign investor, beyond the stipulated period of 180 days from the date of receipt of inward remittance, as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.30,35,705.70**, and the period of delay ranges from three months and twenty nine days to five months and two days approximately.

7. It has been declared in the compounding application dated October 25, 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 October 25, 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 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.61,640.00 (Rupees Sixty One Thousand Six Hundred and Forty only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) 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.61,640.00 (Rupees Sixty One Thousand Six Hundred and Forty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd 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/-

(M Rama Kumari)
Deputy General Manager