



In the

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

Present

**P Ramesh**  
**Assistant General Manager**

Date: April 27, 2018

**C.A.768/2018**

In the matter of

**M/s. KO CON India Pvt Ltd.,**  
820/15, Kuthambakkam Village and Post,  
Poonamallee Taluk,  
Thiruvallur-600124

**(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 February 27, 2018 (received at Reserve Bank on March 05, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in refund of inward remittance received towards subscription to shares in terms of Paragraph 8 of Schedule



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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 then applicable (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 November 16, 2005 under the provisions of the Companies Act, 1956 (Registration No. U51502TN2005PTC058019) and is engaged in the business of manufacture of rubber conveyor or transmission belts or belting. The applicant received a foreign inward remittance amounting to ₹ 1,84,21,932.00 from M/s Korea Conveyer Ind Co. Ltd., South Korea on 15.02.2006 towards subscription to equity shares and reported the same to the Reserve Bank. The company allotted 18,00,000 shares of ₹10/- each on 24.02.2006 amounting to ₹1,80,00,000.00 against the inward remittance and filed the FC GPR with Reserve Bank.

3. The company refunded the balance of inward remittance amounting to ₹ 4,21,932.00 to the overseas investor as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	15.02.2006	4,21,932.00	09.04.2018

The company refunded the amount as indicated above with delay of 10 years four months 10 days approximately beyond the stipulated time of 180 days with prior approval of Reserve Bank. Whereas in terms 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, the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 23, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated April 25, 2018 have informed that they will not be appearing for the personal hearing. The applicant, in the compounding application, had admitted the contraventions as stated in para 3 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.

5. It has been declared in the compounding application dated February 27, 2018 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 February 27, 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.

6. 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 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of inward remittance received towards subscription to shares with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 4,21,932.00 with the duration of contravention being 10 years four months 10 days approximately.

7. 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



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the amount for which the contraventions are to be compounded and I consider that an amount

of ₹ 49,746/- (Rupees forty nine thousand seven hundred and forty six only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 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 ₹ 49,746/- (Rupees forty nine thousand seven hundred and forty six 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 Twenty seventh day of April, 2018.

**Sd/-**

**P Ramesh**  
**Assistant General Manager**