



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

Present

Shri P J Thomas
Regional Director

Date: May 28, 2018
C.A. BGL 280/2018

In the matter of

M/s Kern-Liebers (India) Private Limited
143-151, Antharasanahalli Indl. Area
Phase II
Tumkur - 572106
(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 January 04, 2018, received in the office of Reserve Bank of India, Bengaluru, on January 09, 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 reporting receipt of foreign inward remittances towards subscription to equity, in terms of paragraph 9(1)(A) 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 Kern-Liebers (India) Private Limited was originally incorporated as M/s Kern-Liebers Somappa Precision Parts Private Limited on October 20, 2005, under the Companies Act, 1956, as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. Subsequently, the name of the company has been changed to M/s



Kern-Liebers Springs& Stampings Private Limited, with effect from May 30, 2007, under the Companies Act 1956. Subsequently, the name of the company was changed as M/s Kern-Liebers (India) Private Limited, with effect from March 09, 2015, under the Companies Act, 2013, as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. The Company is engaged in the business of designing and manufacturing of power and constant springs for engineering and automotive application. The applicant had received funds towards share application money from foreign investors, namely, M/s Kern-Liebers International GmbH, Germany and M/s Hugo Kern und Liebers GmbH & Co.KG, Germany, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	24-01-2006	83,25,000.00	28-03-2006
2	30-10-2006	3,87,49,235.00	28-11-2006
3	20-12-2006	4,99,99,235.00	02-02-2007
4	25-01-2007	4,18,17,515.41	30-03-2007
5	01-03-2007	2,49,99,235.00	30-03-2007
6	08-05-2007	331,84,015.00	18-06-2007
7	19-06-2007	162,03,000.00	21-01-2008
8	13-11-2007	295,10,010.00	21-01-2008
9	10-01-2008	400,00,000.00	21-02-2008
10	26-06-2008	26,44,000.00	12-09-2017
11	04-07-2008	230,00,000.00	12-09-2017
12	24-09-2008	265,00,000.00	02-12-2008
13	12-03-2009	209,92,000.00	21-04-2009
14	04-02-2014	1266,37,500.00	28-05-2014
15	18-02-2014	1275,00,000.00	28-05-2014
16	26-03-2014	372,37,500.00	28-05-2014
17	24-11-2014	764,20,000.00	31-12-2014
18	16-12-2014	708,59,250.00	09-01-2015
		79,45,77,495.41	



The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from seven days to nine years, one month and seventeen days approximately, beyond the stipulated time of 30 days in respect of the remittances as indicated above at Sr. Nos. 1, 3, 4, and 6 to 17. 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 applicant was given an opportunity for personal hearing, vide the Reserve Bank's letter FE.BG.FID (CEFA) No. 4526 /22.06.367/2017-18 dated May 23, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Raghavendra Keshav, Company Secretary, and Mr. Kanagaraj P, Deputy Manager - Accounts, who appeared for the personal hearing on May 28, 2018, admitted the contraventions as stated in paragraph 2 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken 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.

4. 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. 65,99,69,775.41**, and the period of delay ranges



from seven days to nine years, one month and seventeen days approximately.

5. It has been declared in the compounding application dated January 04, 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 undertaking dated January 04, 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.

6. 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 contravention are to be compounded and I consider that an amount of **Rs. 6,25,620.00 (Rupees Six Lakh Twenty Five Thousand Six Hundred and Twenty only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 9(1) (A) 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. 6,25,620.00 (Rupees Six Lakh Twenty Five Thousand Six Hundred and Twenty 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 Twenty Eighth day of May, 2018.

Sd/-

(P J Thomas)
Regional Director