



In the

**Reserve Bank of India**  
Foreign Exchange Department  
Mumbai Regional Office  
Main Building, 3rd floor  
Shahid Bhagat Singh Marg, Fort  
Mumbai 400 001

Present

**J. K. Pandey**  
Chief General Manager

**Date: June 21, 2018**

**C.A. No. 744/2018**

In the matter of

**KGK Creations Private Limited**  
Plot No. GJ-10, Seepz++ (SEZ)  
Andheri (East)  
Mumbai - 400096  
**(Applicant)**

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

**Order**

1. The applicant has filed the compounding application dated February 12, 2018 (received at the Reserve Bank of India on February 16, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India (iii) delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns), in terms of paragraphs 9 (1) (A), 9 (1) (B) and 9 (2) respectively, of Schedule 1 to Foreign



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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 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 February 24, 1997 under the Companies Act, 1956 as KGK Creations Private Limited in State of Rajasthan. The Registered Office of the Company changed from State of Rajasthan to State of Maharashtra on October 21, 2004. Its main activities are to carry on the business of importers, exporters, manufacturers, buyers, sellers, dealers, distributors, jewellers, goldsmiths, silversmiths, yellowsmiths, whitesmiths, electroplaters, commission agents, brokers, assemblers, designers, cutters, processors and polishers of all kinds of precious and semi-precious stones and metals, diamonds, emeralds, pearls, gems industrial diamonds, rubies, sapphires, technical and industrial jewel, ruby balls, agate, quartz, crystals, liquid crystals, yellow and white metal jewellery, bullions, gold, silvers, platinum and platinations thereof, utensils, presentation articles, gold and silver ornaments, gold and silver plated articles, articles of vertus, coins, medals, gifts, cups medals, shields, curios, art antiques, studded with or without precious or semi-precious-stones, rubies, gems, pearls and to make, repair, modify all kinds or precious and semi- precious stones, diamonds, pearls, jewellery, bullion and ornaments thereof and to own or acquire by purchase, import, export and deal in diamond dressing tools, diamond glass cutting tools, diamond lathe cutting tools, diamond lapping as well as diamond engraving points, laser diamond processing equipment and all other kind of diamond tools, implements, equipments and accessories, diamond powder, diamond paste and other tools.

3. The applicant received foreign inward remittances from KGK Jewellery Manufacturing Ltd., Hong Kong and Precious Investment (HK) Ltd., Hong Kong towards equity / preference share capital and reported the same to the Reserve Bank of India as indicated in the table.



Sr. No.	Amount received in INR	Date of receipt	Date of reporting
1	50,880.00	14-06-2005	14-07-2005
2	1,22,17,236.00	24-03-2009	23-09-2016
3	3,04,90,000.00	21-03-2014	28-03-2014
4	8,99,99,100.00	27-03-2014	09-04-2014
5	5,61,57,200.00	08-05-2015	15-05-2015
Total	18,89,14,416.00		

The applicant reported receipt of remittances to the Reserve Bank of India with a delay of 7 Years 5 Months approximately, in respect of remittances at serial no. 2 above. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report foreign inward remittances 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

Sr. No.	No. of shares	FV in INR	Premium in INR	Amount in INR	Date of allotment	Date of reporting
1	5000	10	0	50,000.00	15-06-2005	14-07-2005
2	13500	10	895	1,22,17,500.00	19-09-2009	16-07-2016
3	27352	10	4395	12,04,85,560.00	01-08-2014	14-08-2014
4	12662	10	4425	5,61,55,970.00	29-06-2015	27-07-2015
			Total	18,89,09,030.00		

The applicant filed form FC-GPR as indicated at serial No. 2 above with a delay of 6 Years 8 Months 28 Days approximately. Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 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.



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5. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Years 2007-08, 2008-09, 2010-11 and 2011-12 on or before stipulated date. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15<sup>th</sup> day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

6. The applicant was given an opportunity for personal hearing vide e-mail dated June 5, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on June 7, 2018, during which Akash Rai, Accounts Manager; Rajesh Shah, FCA LLB Partner and Jigna Parmar, Principal Consultant represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

7. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. 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 the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount



of Rs.1,22,17,236.00 (Rupees One Crore Twenty Two Lakh Seventeen Thousand Two Hundred Thirty Six only) and the delay of 7 Years 5 Months approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India as detailed in para 4 above. The contravention relates to an amount of Rs.1,22,17,500.00 (Rupees One Crore Twenty Two Lakh Seventeen Thousand Five Hundred only) and the delay of 6 Years 8 Months 28 Days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to delayed filing of Annual Return on Foreign Liabilities and Assets for the Financial Years 2007-08, 2008-09, 2010-11 and 2011-12.

8. It has been declared in the compounding application dated February 12, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has further been stated in the declaration dated June 14, 2018, 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. 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



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take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount of Rs.7,68,500/- (Rupees Seven Lakh Sixty Eight Thousand Five Hundred Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.7,68,500/- (Rupees Seven Lakh Sixty Eight Thousand Five Hundred Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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.

11. The above order is passed only in respect of contraventions of para 9(1)(A), 9(1)(B) and 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: June 21, 2018.

**Compounding Authority**

Sd/-

**(J. K. Pandey)**  
Chief General Manager