



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Sandeep Mittal
General Manager

Date: August 23, 2018
CA No 4670 / 2018

In the matter of

Keselec Lighting Private Ltd
69, Friends Colony West,
New Delhi-110065

(Applicant)

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

Order

The applicant has filed the application dated March 14, 2018 (received in the Reserve Bank on March 27, 2018), 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 of inward remittance beyond the stipulated period and (ii) delay in reporting of issue of shares beyond the stipulated time period. The above amount to the contravention of Paragraph 9(1)(A), 9(1)(B) of Schedule 1 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 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant, a resident company, was incorporated as Keselec Schreder Private Limited on May 27, 1996 under the Companies Act, 1956 (CIN: U34506DL1996PTC079231) and subsequently renamed as Keselec Lighting Private Limited. The company is engaged in the business of manufacturing of Electric/ Electronic lighting fitting. The applicant received foreign inward remittance for issue of shares as follows:

S.No.	Name of remitter	Amount received (INR)	Date of receipt	Date of reporting
1	Schreder SA	59,99,760	23.01.2004	13.01.2017

The reporting for the above remittance was done with a delay of 4709 days beyond the stipulated time period of 30 days, thereby contravening Para 9(1)(A) of Schedule 1 of Notification No. FEMA 20/2000-RB.

The reporting in Form FC-GPR after the issue of shares was done as follows:

S.No.	Name of investor	No. of shares allotted	Amount for which shares allotted (INR)	Date of allotment of shares	Date of reporting
1	Schreder SA	5,99,976	59,99,760	05.02.2004	16.02.2017
2	-do-	2,00,117	20,01,170	22.09.2010	23.10.2012
3	-do-	1	10	29.09.2011	23.10.2012

The reporting in Form-FCGPR was thus done with a delay ranging from 359 to 4729 days beyond the stipulated time period of 30 days, thus contravening Paragraph 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB.



3. In terms of Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time, “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to this Schedule along with a copy/ies of Foreign Inward Remittance Certificate/s (FIRC), Know Your Customer (KYC) report on the non-resident investor and details of the Government approval, if any”.

Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time states that “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares, a report in the Form FC-GPR as specified by the Reserve Bank from time to time....”.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/10360/15.20.67/2017-18 dated June 15, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on July 17, 2018 during which Shri Jugesh Kumar, GM(Finance) of the company, Ms. Roshni Maru and Mr Adit Rahate, Chartered Accountant, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance of FEMA Regulations and that non-compliance with the FEMA guidelines was completely unintentional and hence requested that a lenient view may be taken in the matter. The representatives further submitted that part of the delay in submitting Form FC-GPR to RBI was on the part of the AD. They stated that they had submitted Form FC-GPR to the AD Bank on October 23,2012 and the AD bank, in turn, submitted the same to RBI on December 2016. The AD bank vide its e-mail



dated August 1,2018 has acknowledged the delay on its part. The above submissions have thus been factored in and the period of delay on part of the Applicant Company has been accordingly reduced.

It has also been declared in the compounding application dated March 14 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 been subsequently declared in the declaration dated April 4, 2018, furnished as an addendum to the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and the company has also undertaken to inform the Compounding Authority, in writing, about initiation of any such enquiry/investigation/adjudication proceedings against it/him/her before the issuance of compounding order. 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.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Paragraph 9(1)(A) and 9(1)(B) of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time. The amount of contravention is as follows:

(i) Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 61,41,571/- and Period of contravention is 4709 days.

(iii) Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 80,00,940/- and Period of contravention ranges from 359 days to 4729 days approximately.



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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 2,08,000/- (Rupees two lakh and eight thousand only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Paragraph 9(1)(A) and 9(1)(B) of Notification No. FEMA.20/2000-RB dated May 3, 2000, as amended from time to time, on payment of a sum of Rs. 2,08,000/- (Rupees two lakh and eight thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed accordingly.

Dated this the twenty third day of August, 2018

Sd/-

(Sandeep Mittal)
General Manager