



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: October 25, 2018
C.A. HYD 320

In the matter of

M/s. Fernhill Hotels Private Limited
H. No. 6-1-79 & 80
Lakdikapool, Hyderabad
Telangana – 500 004

(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 compounding application dated June 08, 2018 received on June 15, 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 remittances; (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity and (iii) delay in filing annual return on Foreign Assets and Liabilities to Reserve Bank of India in terms of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 9(2) respectively of Schedule 1 to Foreign Exchange Management (Transfer or Issue of



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Security by a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company originally incorporated as M/s. Sai Raghavendra Hotels Private Limited under the Companies Act, 1956 on 13.12.2004 and later changed its name to M/s. Fernhill Hotels Private Limited with effect from 16.05.2007 (CIN: U55101TG2004PTC044848). The company is engaged in the business of short term accommodation activities.
- b) The applicant had received foreign inward remittances from single foreign investor towards advance for subscription to equity shares as indicated below.

SI No	Name of the Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	M/s. Fernhill Holdings, Mauritius	171120000	03.04.2007	10.05.2007
2	M/s. Fernhill Holdings, Mauritius	40700000	20.06.2007	28.06.2007
3	M/s. Fernhill Holdings, Mauritius	20190000	06.08.2007	05.09.2007
4	M/s. Fernhill Holdings, Mauritius	40220000	13.09.2007	08.10.2007
5	M/s. Fernhill Holdings, Mauritius	9748875	04.12.2007	06.12.2007
6	M/s. Fernhill Holdings, Mauritius	65860600	18.03.2010	24.04.2010



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	Total	34,78,39,475		
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The applicant received the foreign inward remittances amounting to **₹34,78,39,475/-** as indicated above out of which remittances amounting to **₹23,69,80,600/-** were reported to Reserve Bank of India with a delay of 7 days approximately beyond the prescribed period of 30 days. 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 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.

c) The company allotted shares and filed form FC-GPRs as indicated below:

SI No	Name of investor	Date of allotment of shares	Number of shares/CC PS allotted	Amount for which shares allotted (INR)	Date of reporting
1	M/s. Fernhill Holdings, Mauritius	26.11.2007	23201000	232010000	07.01.2008
2	M/s. Fernhill Holdings, Mauritius	04.03.2008	4996880	49968800	04.04.2008*
3	M/s. Fernhill Holdings, Mauritius	08.04.2010	1242652	65860556	03.05.2010
	Total		29440532	34,78,39,356	

* Compounded vide CA no. 1524/2011 dated June 06, 2011 by Central Office.

The applicant filed form FCGPRs for issue of shares amounting to **₹34,78,39,356/-** as indicated above out of which shares amounting to **₹23,20,10,000/-** were reported with a delay of 12 days approximately beyond



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the stipulated period of 30 days. 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 of India a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

e. The applicant has delayed in filing Annual return on Foreign Assets and Liabilities (FLA Return) for five financial years viz. 2008-09, 2010-11, 2011-12, 2012-13 and 2015-16 with delays ranging from 2 days to 10 days approximately. Whereas in terms of Para 9(2) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as then applicable, "All Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/677/14.66.003/2018-19 dated October 08, 2018 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on October 16, 2018 during which Shri. Dinesh Kumar Singhal, Chartered Accountant represented the applicant. The authorized representative of the company admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention. In view of the foregoing, the representative of the applicant 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 the submissions made in this context by the applicant during the personal hearing.



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4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to ₹23,69,80,600/- and the delay is 7 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 23,20,10,000/- and the period of contravention is 12 days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No.20/2000-RB for delay in filing Annual Return on Foreign Assets and Liabilities to Reserve Bank of India for five financial years and the delay ranges from 2 days to 10 days approximately.

5. It has been declared in the declaration dated August 16, 2018 furnished with the compounding application that the applicant is under enquiry/investigation/adjudication by Directorate of Enforcement as on the date of the application. Accordingly, RBI vide letter no. HY.FE.FID/183/14.66.003/2018-19 dated August 02, 2018 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to rule 8(2) of the Compounding Rules to compounding of the contraventions sought to be compounded by the applicant. DoE vide its letter F. No. RBI/SDE/WR/B-196/2018/1891 dated August 30, 2018 has confirmed its 'no objection' to compounding by RBI in the matter. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

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



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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 is to be compounded and I consider that an amount of ₹ 90,000/- (**Rupees Ninety Thousand Only**) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 9(2) 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 ₹ 90,000/- (**Rupees Ninety Thousand Only**) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 25th day of October 2018

Sd/-

(Subrata Das)
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)