



**In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
EDC Complex, Patto Plaza,
Panaji, Goa - 403 001**

Present

**Ms. Meenakshi Gad
Deputy General Manager**

Date: October 16, 2018

CA No: PAN14

In the matter of

**M/s Marchant Hospitality Pvt Ltd
Regd. Office: House No. 133/1, Ward X Palolem,
Canacona, Goa – 403 702**

In exercise of the powers conferred 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 August 06, 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 receipt of foreign inward remittance towards subscription to equity (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India and (iii) delay in receipt of inward remittance against shares issued at the time of incorporation of the company and refund of share application money beyond 180 days in terms of paragraphs 9(1)(A), 9(1)(B) and 8 respectively, 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 3rd May 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:

i) The applicant is a company registered as a private limited company, incorporated on January 31, 2007 under the Companies Act, 1956 (CIN: U55101GA2007PTC005052) with the main object of undertaking the business of hospitality.

ii) The applicant received foreign inward remittances towards issue of equity shares as detailed below:

Sr. No.	Name of Remitter	Amount (Rs.)	Date of Receipt	Reported to RBI on
1	Patrick Marchant	9,37,860/-	06-Feb-2008	20-Jan-2012
2	Maud Helene Caroline Wipperfurth	3,05,970/-	27-Jan-2011	24-Feb-2011
3	Thibault Marchant	2,60,926/-	29-Sep-2011	20-Jan-2012
	TOTAL	15,04,756/-		

The applicant reported receipt of remittances to the Foreign Exchange Department, Panaji Office of the Reserve Bank on the dates indicated above with delays of 2 months 22 days to 3 years 10 months 13 days in respect of remittance received on two occasions, beyond the stipulated period of 30 days. 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.



iii) The applicant allotted equity shares and filed FC-GPRs as indicated below:

Sr. No.	Name of Investor	No. of Shares	Amount (Rs.)	Date of Allotment	Reported to RBI on
1	Thibault Marchant	990	99,000/-	31-Jan-2007	20-Jan-2012
2		8,000	8,00,000/-	28-Feb-2008	
3	Maud Helene Caroline Wipperfurth	3,059	3,05,900/-	18-Mar-2011	05-Apr-2011
4	Thibault Marchant	2,609	2,60,900/-	24-Nov-2011	03-May-2018
	Total	14,658	14,65,800/-		

The applicant filed Form FC-GPR in respect of shares allotted with delays ranging from 3 years 9 months 20 days to 6 years 4 months 8 days approximately on three occasions, beyond the stipulated period of 30 days. Whereas in terms of paragraph 9(1)(B) of Schedule I 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.

iv) The company had received the inward remittances towards issue of shares and refunded the balance FDI amount after the prescribed period of 180 days as detailed below –

No. of Shares	Amount (Rs.)	Inward Remittance (Rs.)	Date of Credit	Date of Allotment / Refund
990	99,000.00	9,37,860/-	6-Feb-2008	31-Jan-2007
-	38,860.00			08-May-2018

The company had received inward remittance against shares issued at the time of incorporation of the company with delay of 1 year 6 days and refunded the excess share application money with delay of 10 years 3 months 2 days. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA



20/2000-RB, the shares have to be issued and / or amount refunded within 180 days from the date of receipt of the inward remittance.

3. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter no. PNJ.FED: 209 / 02.01.985 / 2018-19 dated October 05, 2018 for further submission in person and/or producing documents, if any, in support of the application. However, the company representative Smt. Shushma Bandekar, Company Secretary has informed vide e-mail dated October 09, 2018 that they have chosen not to appear for the personal hearing as per the option available to them. The applicant, in the compounding application, has admitted the contravention as stated in para 2 above for which compounding has been sought. It has also been submitted that the delays were unintentional. The application for compounding is, therefore, being considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.

4. It has been declared in the compounding application dated August 06, 2018 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief and also that the applicant was not under any enquiry/investigation/adjudication by any agency such as Enforcement Directorate, CBI, etc. as on the date of the application. The applicant has also given an undertaking to inform RBI of initiation of any enquiry/investigation/ adjudication proceedings against it 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.



5. I have given my careful consideration to the documents on record and in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of:

- i) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs.11,98,786/-** and the duration of delay is 2 months 22 days to 3 years 10 months 13 days.
- ii) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India. The contravention relates to an amount of **Rs.11,59,900/-** and the duration of contravention ranges from 3 years 9 months 20 days to 6 years 4 months 8 days approximately.
- iii) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in receipt of inward remittance against shares issued at the time of incorporation of the company with delay of 1 year 6 days and delay in refund of the excess share application money of 10 years 3 months 2 days. The contravention relates to an amount of **Rs.1,37,860/-**.

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 contraventions are to be compounded and I consider that an amount of **Rs. 85,299/- (Rupees Eighty Five Thousand Two Hundred Ninety Nine only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 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.85,299/- (Rupees Eighty Five Thousand Two Hundred Ninety Nine only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC, Patto Plaza, Panaji, Goa 403 001 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 of accordingly.

Dated this the sixteenth day of October 2018.

Sd/-

(Meenakshi Gad)
Deputy General Manager