



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present

Sh. Tarun Kumar Singh
General Manager

Date: February 16, 2017
C.A.NDL 236/2016

In the matter of

Hexagon Metrology India Private Limited
RZ-670/B, Street No. 27A, Sadh Nagar II, Palam Colony
Opp. Atithi Bhawan, Saini Pura, New Delhi 110045
(Applicant)

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

Order

The applicant has filed a compounding application dated December 22, 2016 (received in Reserve Bank of India on the same day) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of delay in reporting of inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)(A) of Schedule 1 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 as amended from time to time (hereinafter referred to as FEMA 20/2000- RB) and delay in submission of form FC-GPR for allotment of shares in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB.

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



- a) The applicant company was incorporated under the Companies Act, 1956 on July 22, 2005 and allotted registration No. U51909DL2005PTC138973 by Registrar of Companies. The company is engaged in wholesale of metrology equipment, machinery and supplies, providing consultancy in designing, commissioning of hydro and wind power plants including all related civil work.
- b) The company had received 7 foreign inward remittances from August 3, 2005 to January 30, 2015 for issue of shares, out of which, 4 remittances amounting to Rs. 99,02,000.00 were reported with a delay ranging from 3 years 3 months and 20 days to 10 years 11 months and 17 days (as detailed hereunder), beyond the prescribed period, in contravention of Paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB			
S.No.	Date of Receipt	Amount (Rs.)	Date of Reporting to RBI
1	03.08.2005	1,00,000.00	19.08.2016
2	11.11.2005	23,77,861.92	16.03.2016
3	14.12.2005	74,02,061.06	29.03.2016
4	29.10.2012	22,077.02	19.03.2016
		99,02,000.00	

Whereas in terms of Paragraph 9 (1) (A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, receipt of amount of consideration towards share subscription not later than 30 days from the date of receipt of the said amount.

- c) The company had allotted equity shares on 4 occasions, out of which, on 2 occasions, the company had reported form FC-GPR with a delay ranging from 10 years 4 months and 22 days to 10 years 9 months and 1 day (as detailed hereunder), beyond the prescribed period, in contravention of Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Contravention of Para 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB				
S.No.	Date of Allotment	No. of Shares Allotted	Amount (Rs.)	Date of Reporting to RBI
1	19.10.2005	10000	1,00,000.00	19.08.2016
2	24.01.2006	980200	98,02,000.00	15.07.2016



			99,02,000.00	
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Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 to 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.

Thus, there are contraventions of Paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-RB dated May 3, 2000.

3. The applicant was given an opportunity for personal hearing for further submission in person and/or by producing documents, if any, in support of the application. Ms. Neetu Saini, Practicing Company Secretary appeared for the personal hearing on February 16, 2017 on behalf of the company. She stated that due to resignation of concerned person, who was assigned with the responsibility of compliances under FEMA, there was delay in reporting of foreign inward remittances and submission of form FC-GPR. The representative of the applicant company admitted the contraventions committed by them for which they have sought compounding and requested that as there has been no malafide intention on the part of the company, a lenient view may be taken in the matter.

The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9 (1) (A) of Schedule 1 to FEMA 20/2000-RB due to delay in reporting the inflow of funds from a person resident outside India. The contravention relates to an amount of Rs.99,02,000.00 and the duration of contravention is ranging from 3 years 3 months and 20 days to 10 years 11 months and 17 days, beyond the prescribed period of 30 days.



(b) Paragraph 9 (1) (B) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of form FCGPR with RBI. The contravention relates to an amount of Rs.99,02,000.00 and duration of contravention ranges from 10 years 4 months and 22 days to 10 years 9 months and 1 day, beyond the prescribed period of 30 days.

5. 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.2,15,675/- (Rupees two lakh fifteen thousand six hundred seventy five only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1)(A) and 9 (1)(B) of Schedule 1 to FEMA 20/2000-RB by the applicant on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of Rs.2,15,675/- (Rupees two lakh fifteen thousand six hundred seventy five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi – 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi 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 16th day of February, 2017.

Sd/-

(Tarun Kumar Singh)

General Manager



Hexagon Metrology India Pvt. Ltd.
CA NDL 236/2016