



In the

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

Present

Shekhar Bhatnagar
Chief General Manager

Date: February 28, 2017
CA No 4232 / 2016

In the matter of

Plus Building Systems Private Limited
May Fair Apartment, Flat No. 5C/D
Banjara Hills Road No. 2
Hyderabad - 500034

(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 November 28, 2016 (received in the Reserve Bank on November 28, 2016), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is raising money from NRI without using the requisite public offer route of issuance of Non-convertible debentures (NCDs) for raising such money. The above was in contravention of Regulation 5(1)(i) of Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 notified vide



Notification No. FEMA 4/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 4/2000-RB).

2. The relevant facts are as under: The applicant was incorporated as a private limited company, on June 21, 2011 (CIN: U45200AP2011PTC075119). The applicant is engaged in carrying out business as manufacturers, refiners, dealers, importers, exporters etc. for application in all kinds of construction and building chemicals. The applicant raised unsecured loan totaling INR 2,17,91,493, from NRI (foreign equity holder), without requisite public offer route of issuance of NCD, as follows:

S.No.	Date of loan	Amount of loan (INR)
1	13.08.2011	12147993
2	30.08.2011	380000
3	30.08.2011	245000
4	02.09.2011	73000
5	03.09.2011	60000
6	05.09.2011	490000
7	06.09.2011	35000
8	06.09.2011	250000
9	07.09.2011	180000
10	08.09.2011	1510000
11	09.09.2011	175000
12	12.09.2011	20000
13	13.09.2011	490000
14	14.09.2011	130000
15	14.09.2011	100000
16	15.09.2011	50000
17	16.09.2011	725000
18	19.09.2011	200000
19	23.09.2011	475000



20	28.09.2011	245000
21	01.10.2011	300000
22	03.10.2011	477000
23	05.10.2011	328500
24	11.10.2011	200000
25	19.10.2011	35000
26	20.10.2011	100000
27	30.04.2012	1000000
28	11.06.2013	850000
29	02.07.2013	520000
Total		2,17,91,493

The above amounted to contravention of the provisions of Regulation 5(1)(i) of Notification No. FEMA 4/2000-RB. The applicant was advised to unwind the transactions, whereby the entire loan amount was remitted on October 28, 2016.

3. In terms of Regulation 5(1) of Notification No.FEMA.4/2000-RB dated May 03, 2000 as amended from time to time "...a company incorporated in India may borrow in rupees on repatriation or non-repatriation basis, from a non-resident Indian or a person of Indian origin resident outside India by way of investment in Non-convertible Debentures (NCDs) subject to the following conditions: (i) the issue of Non-convertible Debentures (NCDs) is made by public offer....".

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/7886/15.20.67/2016-17 dated February 02, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 27, 2017, during which Shri Alphanso Coutinho, Director, represented the applicant. The representative of the applicant submitted that the company had inadvertently failed to comply with the FEMA regulations due to ignorance, and therefore requested that a lenient view may be taken in the matter. 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 Regulation 5(1)(i) of Notification No. FEMA 4/2000-RB. The amount of contravention is Rs. 2,17,91,493/- and the period of contravention ranges from 3 years to 5 years 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. 2,11,566/- (Rupees two lakh eleven thousand five hundred and sixty six 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 contraventions committed by the applicant namely, Regulation 5(1)(i) of Notification No. FEMA 4/2000-RB dated 3rd May 2000, on payment of a sum of Rs. 2,11,566/- (Rupees two lakh eleven thousand five hundred and sixty six 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 favor 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.



FED, CEFA
Plus Building Systems Private Limited
CA No 4232/2016

The application is disposed accordingly.

Dated this the twenty eighth day of February, 2017

Sd/-

(Shekhar Bhatnagar)
Chief General Manager