



In the

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

Present

Sh. Rohit Jain
Chief General Manager

Date: February 07, 2017
C.A.NDL 232/2016

In the matter of

Master Image Works Private Limited
E-2, Jangpura Extension, New Delhi 110014

(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 November 25, 2016 (received in Reserve Bank of India on November 28, 2016) for compounding of contraventions 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 (i) 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) (ii) delay in submission of form FC-GPR after allotment of shares in terms of Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB and (iii) delay in allotment of shares beyond the



prescribed period of 180 days in terms of Paragraph 8 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 May 30, 2007 and allotted registration No. U72300DL2007PTC164156 by Registrar of Companies. The company is engaged in the business of IT related services.
- b) The company had received a total of 26 foreign inward remittances from January 14, 2008 to June 21, 2013 for issue of equity shares, out of which, on 24 occasions the company had reported inward remittances with delay ranging from 1 month and 11 days to 4 years 2 months and 19 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.FEMA20/2000-RB			
S No	Date of receipt	Amount (Rs.)	Date of Reporting to RBI
1	14.01.2008	1,57,669.60	02.05.2012
2	20.05.2008	2,42,880.00	02.05.2012
3	17.06.2008	25,86,111.36	02.05.2012
4	20.11.2008	4,72,625.00	02.05.2012
5	24.12.2008	2,10,392.30	02.05.2012
6	29.05.2009	1,00,297.50	02.05.2012
7	07.07.2009	4,50,859.50	02.05.2012
8	29.07.2009	95,480.00	02.05.2012
9	03.11.2009	1,16,000.00	02.05.2012
10	02.12.2009	3,61,575.90	02.05.2012
11	02.02.2010	2,05,245.00	02.05.2012
12	23.02.2010	4,32,250.00	02.05.2012
13	30.03.2010	1,48,438.50	02.05.2012
14	19.04.2010	3,47,018.85	02.05.2012
15	01.02.2011	3,95,150.00	02.05.2012
16	07.02.2011	1,68,450.00	02.05.2012
17	20.06.2011	1,70,711.52	02.05.2012
18	20.06.2011	3,33,824.08	02.05.2012
19	18.10.2011	3,87,607.50	02.05.2012
20	08.11.2011	3,37,260.00	04.08.2012
21	30.11.2011	4,77,411.00	04.08.2012
22	16.12.2011	4,90,458.15	04.08.2012
23	25.05.2012	4,62,230.00	04.08.2012



24	24.02.2012	4,56,475.00	04.08.2012
		96,06,420.76	

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 5 occasions, out of which, on 4 occasions company reported it in form FC-GPR with a delay ranging from 1 month and 3 days to 1 year and 29 days (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.FEMA20/2000-RB				
S No	Date of Allotment	No. of Shares Allotted	Amount (Rs.)	Date of reporting to RBI
1	04.03.2011	649350	64,93,500.00	02.05.2012
2	12.01.2012	89214	8,92,140.00	02.05.2012
3	01.06.2012	222383	22,23,830.00	04.08.2012
4	11.12.2013	55791	5,57,910.00	14.02.2014
			1,01,67,380.00	

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 a person resident outside India.

- d) The company had received 17 remittances amounting to Rs.67,68,639.11 from 14.01.2008 to 08.11.2011 (as detailed hereunder) and had allotted equity shares, without seeking RBI approval, with a delay ranging from 26 days to 2 years 7 months and 20 days, beyond the prescribed period in contravention of Paragraph 8 of Schedule 1 to FEMA Notification No 20 /2000-RB dated May 3, 2000.



Contravention of Para 8 of Schedule 1 to Notification No.FEMA20/2000-RB			
S No	Date of receipt	Amount (Rs.)	Date of allotment
1	14.01.2008	1,57,669.60	04.03.2011
2	20.05.2008	2,42,880.00	04.03.2011
S No	Date of receipt	Amount (Rs.)	Date of allotment
3	17.06.2008	25,86,111.36	04.03.2011
4	20.11.2008	4,72,625.00	04.03.2011
5	24.12.2008	2,10,392.30	04.03.2011
6	29.05.2009	1,00,297.50	04.03.2011
7	07.07.2009	4,50,859.50	04.03.2011
8	29.07.2009	95,480.00	04.03.2011
9	03.11.2009	1,16,000.00	04.03.2011
10	02.12.2009	3,61,575.90	04.03.2011
11	02.02.2010	2,05,245.00	04.03.2011
12	23.02.2010	4,32,250.00	04.03.2011
13	30.03.2010	1,48,438.50	04.03.2011
14	19.04.2010	3,47,018.85	04.03.2011
15	20.06.2011	1,70,711.52	12.01.2012
16	20.06.2011	3,33,824.08	12.01.2012
17	08.11.2011	3,37,260.00	01.06.2012
		67,68,639.11	

Whereas, in terms of Paragraph 8 of Schedule 1 to FEMA notification No 20/2000-RB, equity instruments should be issued within 180 days of the receipt of the inward remittance. In case the equity instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR (B) account, the amount of consideration so received should be refunded immediately to the non-resident investor through normal banking channels or by credit to his NRE/FCNR (B) account, as the case may be. Provided further that the Reserve Bank, may on an application made to it and for sufficient reasons permit an Indian Company to issue shares/ refund the amount of consideration received towards issue of security, if such amount of consideration is outstanding beyond a period of 180 days from the date of receipt.

Thus, there are contraventions of Paragraph 9(1) (A), 9(1) (B) and 8 of Schedule 1 to FEMA Notification No 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. Sh. Sagar Verma, Company Secretary appeared for the personal hearing on February 3, 2017 on behalf of the company. The representative of the applicant



company admitted the contraventions committed by them for which the company has sought compounding. He stated that the concerned person who was handling foreign exchange and financial matters left the organisation and a suitable person could not be recruited for quite a long time. He further stated that the company was also not aware of the FEMA compliances which led to these contraventions and as such requested for a lenient view 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. 96,06,420.76 and the duration of contravention is ranging from 1 month and 11 days to 4 years 2 months and 19 days.

(b) Paragraph 9 (1) (B) of Schedule 1 to FEMA 20/2000-RB due to delay in filing of form FC-GPR with RBI. The contravention relates to an amount of Rs.1,01,67,380.00 and duration of contravention ranges from 1 month and 3 days to 1 year and 29 days, beyond the prescribed period of 30 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB due to delay in allotment of shares. The contravention relates to an amount of Rs. 67,68,639.11 and duration of contravention ranges from 26 days to 2 years 7 months and 20 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.1,90,302/- (Rupees one lakh ninety thousand three hundred and two only)** will meet the ends of justice.



6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1)(A) , 9 (1)(B) and 8 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.1,90,302/- (Rupees one lakh ninety thousand three hundred and two only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi-100001 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 7th day of February, 2017.

Sd/-

(Rohit Jain)
Chief General Manager