



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

B.Sarangi
Deputy General Manager

Date : March 23, 2017
C.A.620/2016

In the matter of

M/s. Olive Beach Properties Pvt Ltd.,
No.71/35, Armenian Street,
4th Floor, C Block,
Chennai-600001

(Applicant)

In exercise of the powers 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 December 15, 2016 (received at Reserve Bank on December 19, 2016) 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



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(i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (iii) delay in allotment of shares in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 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 May 3, 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: The applicant company was incorporated on September 21, 2007 under the provisions of the Companies Act, 1956 (Registration No. U55100TN2007PTC064844) and is engaged in Business of Hotels and Motels, inns, resorts providing short term lodging facilities includes accommodation in house boats. The applicant received foreign inward remittances from (i) Ms. Vimaladevi Rasanayagam, Malayasia (ii) Mr. Jayapalasingam Kandiah, Malayasia (iii) Mr. Ashvin Jayapalasingam, Malayasia towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No	Amount of Foreign Inward Remittance (in Rs.)	Date of receipt	Reported to RBI on
1	1,00,000	18.02.2008	27.01.2015
2	32,168	12.08.2011	22.06.2015
3	32,697	17.08.2011	22.06.2015
4	47,530	26.09.2011	27.01.2015
5	13,409	26.09.2011	27.01.2015
6	1,08,927	27.12.2012	13.02.2013
7	1,84,304	28.02.2014	28.03.2014
8	1,82,868	03.03.2014	28.03.2014
9	1,81,463	10.03.2014	28.03.2014
10	1,79,280	14.07.2014	06.08.2014
11	1,79,550	16.07.2014	06.08.2014
12	1,79,011	18.07.2014	06.08.2014
13	1,78,981	24.07.2014	06.08.2014
14	1,82,839	06.08.2014	27.01.2015
15	1,82,151	13.08.2014	27.01.2015



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16	1,79,938	22.08.2014	27.01.2015
17	1,80,457	13.11.2014	27.01.2015
18	1,78,891	29.11.2014	27.01.2015
19	1,72,087	03.12.2014	27.01.2015
20	43,938	02.06.2015	23.06.2015
21	1,57,916	26.06.2015	06.07.2015
22	1,58,240	30.06.2015	06.07.2015

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above and with delay ranging from 17 days to six years 10 months nine days approximately beyond the stipulated time of 30 days in respect of the remittances at Sr. Nos. 1 to 6 & 14 to 19. 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.

3. The company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of shares/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	6485	10	64,850	03.11.2011	22.06.2015
2	10000	10	1,08,927	09.01.2013	13.02.2013
3	21101	10	5,48,626	31.05.2014	24.06.2014
4	12379	10	1,60,927	28.06.2014	27.01.2015
5	137937	10	17,93,181	31.12.2014	27.01.2015
6	30007	10	3,60,084	27.07.2015	03.08.2015

The applicant filed the form FC-GPR as indicated above with delay ranging from four days to three years six months 19 days approximately beyond the prescribed limit of 30 days in respect of the allotment at Sr. No.1,2 & 4. 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.



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4. The company allotted 12379 shares of ₹10/- each at a premium of ₹ 3/- on 28.06.2014 against 3 remittances as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment of shares
1	18.02.2008	1,00,000	28.06.2014
2	26.09.2011	47,530	28.06.2014
3	26.09.2011	13,397	28.06.2014

The company allotted the shares with delay ranging from two years three months two days to five years 10 months 10 days approximately beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 16, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on

March 21, 2017 during which Shri Srinivasan Raman, Finance Manager and Shri M Damodaran, Practising Company Secretary, represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 to 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take 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 other documents and submissions made in this context by the applicant during personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing.



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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 due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 14,11,094/- and the duration ranging from 17 days to six years 10 months nine days approximately;
- (b)** Paragraph 9 (1) B of Schedule 1 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 ₹ 3,34,704/- and the duration of contravention ranging from four days to three years six months 19 days approximately; and
- (c)** Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 1,60,927/- and the duration of contravention ranging from two years three months two days to five years 10 months 10 days approximately.

7. 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 ₹ 85,813/- (Rupees eighty five thousand eight hundred and thirteen only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB,



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by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ **85,813/-** (Rupees eighty five thousand eight hundred and thirteen only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 Twenty Third day of March, 2017.

Sd/-

B.Sarangi
Deputy General Manager