



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

K R K Reddy
Deputy General Manager

Date: April 25, 2017
C.A. HYD 193

In the matter of

M/s. Laempe Foundry Technology Pvt Ltd
Plot no 144 & 145/B
IDA, Phase II
Cherlapally
Hyderabad- 500 051

(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 compounding application dated January 31, 2017 for compounding of contravention 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 of receipt of foreign inward remittances; and (ii) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India, within 180 days of the receipt of the inward remittance in terms of Paragraph 9 (1) (A) and Paragraph 8 of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 of Schedule 1 to Foreign Exchange Management (Transfer or



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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:

- a) The applicant is a resident company incorporated on 11.12.1997. The company is engaged in the manufacturing of foundry equipment.
- b) The applicant had received foreign inward remittances from overseas investors towards advance for subscription to equity shares as indicated below:

Sl. No.	Name of Remitter	Total Amount (₹)	Date of Receipt	Date of Reporting
1	Laempe Gmbh	10,55,818	26.08.2000	10.07.2002
2	Matthias Kaiser	49,565	06.02.2009	12.11.2009
3	Matthias Kaiser	6,741	12.10.2009	12.11.2009
4	Laempe & Moessner Gmbh	1,139	02.07.2014	25.04.2015
	Total	11,13,263		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **11,13,263** /- to the Regional Office of Reserve Bank of India and remittances amounting to ₹ **11,06,522** /- was reported with delay ranging from 8 months 7 days to 1 year 9 months 15 days approximately as indicated above. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 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.



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c) The company refunded the excess share application money beyond 180 days from the date of receipt of remittance as indicated below:

SI No	Name of Investor	Date of receipt of remittance	Amount (₹)	Date of refund of share application money	Excess share application money (₹)
1	Matthias Kaiser	12.10.2009	6741	25.01.2017	6306

The applicant refunded the excess share application money amounting to ₹ 6,306 /- as indicated above with a delay of 6 years 9 months 13 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Govt. of India.

3 a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2150/14.66.003/2016-17 dated April 12, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide letter dated 18.04.2017 expressed inability to attend the Personal Hearing. The applicant has requested that the application may be processed



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based on the documents submitted along with the application dated 31.01.2017. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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 foreign inward remittances towards subscription to equity shares as detailed above. The contraventions relate to an amount of ₹ **11,06,522** /- and the duration of contravention ranges from 8 months 7 days to 1 year 9 months 15 days approximately.

(b) Paragraph 8 of Schedule 1 to Notification No. 20/2000-RB due to delay in refund of excess share application money within 180 days from the date of receipt of remittance and the contravention relates to an amount of ₹ **6,306** /- and the duration of contravention is 6 years 9 months 13 days approximately.

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 contravention is to be compounded and I consider that an amount of ₹ 20,489 /- (Rupees Twenty Thousand Four Hundred Eighty Nine Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, the contraventions of Paragraph 9 (1) (A) and Paragraph 8 of Schedule 1 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 ₹ 20,489 /-



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(Rupees Twenty Thousand Four Hundred Eighty Nine Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favor of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 25th day of April 2017.

Sd/-

(K R K Reddy)
Deputy General Manager