



In the

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

Present

R Kesavan
Chief General Manager

Date: April 17, 2017
C.A.618/2016

In the matter of

M/s. MGM Varvel Power Transmission Pvt Ltd.,
68, Indus Valley's Logistic Park,
Unit 3, Mel-Ayanambakkam, Vellala Street,
Chennai-600095

(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 09, 2016 (received at Reserve Bank on December 15, 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 refund of excess inward remittance 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 August 25, 2010 under the provisions of the Companies Act, 1956 (Registration No. U31103TN2010PTC077128) and is engaged in Business of manufacture of electric motors, generators, transformers and electricity distribution and control apparatus. The applicant received foreign inward remittances from (i) M/s MGM Motori Elettrici SPA, Italy and (ii) M/s.Varvel SPA, Italy 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	7,32,870.00	06.10.2010	26.11.2010
2	7,34,400.00	06.10.2010	26.11.2010
3	49,85,550.00	15.11.2010	06.12.2010
4	49,85,550.00	15.11.2010	06.12.2010
5	50,54,100.00	03.12.2010	10.01.2011
6	50,54,100.00	03.12.2010	10.01.2011
7	16,67,487.50	13.12.2010	20.01.2011
8	14,88,000.00	20.12.2010	20.01.2011
9	1,80,651.50	28.12.2010	20.01.2011
10	82,87,500.00	26.09.2011	01.11.2011
11	82,86,505.50	26.09.2011	01.11.2011
12	20,77,500.00	29.11.2011	11.01.2012
13	20,77,500.00	29.11.2011	11.01.2012
14	22,09,600.00	10.12.2011	06.01.2012
15	21,50,080.00	05.01.2012	22.03.2012
16	3,46,81,250.00	18.10.2012	08.11.2012



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17	3,46,80,209.56	18.10.2012	08.11.2012
18	4,05,35,946.00	17.07.2014	31.07.2014
19	4,06,40,000.00	21.07.2014	31.07.2014

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from one day to one month 17 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sr. Nos. 1,2,5 to 8,10 to 13 and 15. 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	2480000	10	2,48,00,000	17.01.2011	07.03.2011
2	2500000	10	2,50,00,000	28.01.2012	10.08.2012
3	991400	10	6,93,58,344	27.02.2013	28.03.2013
4	1000000	10	8,10,00,000	22.07.2014	04.12.2014

The applicant filed the form FC-GPR as indicated above with delay ranging from 19 days to five months 15 days approximately beyond the stipulated time of 30 days in respect of the allotments. 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.

4. The company refunded the excess inward remittances remaining after allotment of shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	13.12.2010	41,537.50	10.02.2017



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2	28.12.2010	41,171.50	10.02.2017
3	10.12.2011	74,600.00	10.02.2017
4	05.01.2012	14,085.50	10.02.2017
5	18.10.2012	3,115.56	10.02.2017
6	17.07.2014	35,946.00	10.02.2017
7	21.07.2014	1,40,000.00	10.02.2017

The company refunded the amount as indicated above with delay ranging from two years 20 days to five years seven months 28 days approximately beyond the stipulated time of 180 days with 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 April 10, 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 April 13, 2017 during which Shri S Ramanathan, Head, Finance & Accounts represented the applicant. The authorized representative 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. 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



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shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 3,76,10,043/- for duration ranging from one day to one month 17 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 ₹ 13,08,00,000/- with the duration of contravention ranging from 19 days to five months 15 days approximately; and

(c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 3,50,456.06 with the duration of contravention ranging from two years 20 days to five years seven months 28 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 ₹ 1,16,798/- (Rupees one lakh sixteen thousand seven hundred and ninety eight 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, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 1,16,798/- (Rupees one lakh sixteen thousand seven hundred and ninety eight 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



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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 Seventeenth day of April, 2017.

Sd/-

R Kesavan
Chief General Manager