



In the

Reserve Bank of India
10/3/8, Nrupathunga Road,
Bengaluru-560001

Present

Eugene E Karthak
Regional Director

Date: April 25, 2017
C.A. BGL200/2017

In the matter of

M/s Somerset Whitefield Hospitality Private Limited
Plot No. 98 & 99, EPOP Industrial Area
Hoodi Village, Krishnarajapuram
Bengaluru - 560066
(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders framed there under, I pass the following

ORDER

The applicant has filed a compounding application dated January 16, 2017 (received at the Reserve Bank on February 27, 2017), 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 (i) delay in reporting receipt of foreign inward remittances towards subscription to equity and (ii) delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to a person resident outside India in terms of paragraphs 9(1) (A) and 9(1) (B) 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 03, 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, M/s Somerset Whitefield Hospitality Private Limited, was incorporated on December 27, 2006. The name of the company at the time of incorporation was “Whitefield Properties Private Limited” which got changed to “Rattha Somerset Whitefield Hospitality Private Limited” on June 18, 2007. The company name got changed again to “Somerset Whitefield Hospitality Private Limited” on November 13, 2012 under the Companies Act, 1956. The company is engaged in Hospitality business. The applicant received funds towards share application money from foreign investor viz. M/s The Ascot Capital Pte Ltd., Singapore as shown below:

Sr. No.	Date of Receipt	Amount (Rs.)	Date of Reporting
1	08.04.2011	8,44,14,000	02.11.2016
2	20.08.2013	15,81,80,000	19.09.2013
3	25.02.2016	25,00,000	16.09.2016
	TOTAL	24,50,94,000	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with delay ranging from five months and twenty one days to five years five months and twenty five days approximately beyond the stipulated time of 30 days in respect of remittances indicated at Sr Nos. 1 and 3. 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.

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



Sl. No.	Date of Allotment	Amount (INR)	Date of reporting
1	18.04.2011	8,44,14,000	31.10.2016
2	15.01.2014	15,81,80,000	31.01.2014
3	25.04.2016	25,00,000	22.11.2016
	Total	24,50,94,000	

The applicant filed the Form FC-GPRs on allotment of shares with the Reserve Bank / Authorized Dealer bank, with a delay ranging from five months and twenty eight days to five years five months and thirteen days approximately beyond the prescribed period of 30 days in respect of allotment of shares indicated at Sr. No. 1 and 3. 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No. FE.BG.FID (CEFA) No. 5985/22.08.936/2016-17 dated April 11, 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 21, 2017 and Shri Prasanna Raghavan, Financial Controller - India along with Shri Shiva Prasad Padhy, Company Secretary represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in paragraphs 2 and 3 above committed by the applicant, for which compounding has been sought. The representative of the applicant requested that as the contraventions were not intentional and were beyond the control of the applicant, a lenient view may be taken in disposal of the application. 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 and thereafter.



4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs. 8,69,14,000/-** and the duration ranges from five months and twenty one days to five years five months and twenty five days approximately.

(b) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of **Rs. 8,69,14,000/-** and the duration ranges from five months and twenty eight days to five years five months and thirteen 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 contraventions are to be compounded and I consider that an amount of **Rs. 5,72,500/- (Rupees Five Lakh Seventy Two Thousand and Five Hundred only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9 (1) (A) and 9(1) (B) of Schedule I 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 **Rs. 5,72,500/- (Rupees Five Lakh Seventy Two Thousand and Five Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru - 560001 by a demand draft drawn in favour of



the “Reserve Bank of India” and payable at Bengaluru 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 Twenty Fifth day of April 2017.

Sd/-

(Eugene E Karthak)
Regional Director