



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 : June 02, 2017
C.A.634/2016

In the matter of

M/s. Poclain Hydraulics Pvt Ltd.,
131/2, Kothapurinatham Road,
Mannadipet Commune Panchayat,
Thiruvandarkoil Village,
Puducherry-605102

(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 January 05, 2017 (received at Reserve Bank on January 13, 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 of inflow of funds received from a person resident outside India for



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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 December 01, 2006 under the provisions of the Companies Act, 1956 (Registration No. U31200PY2006PTC002617) and is engaged in Business of design, develop, manufacture, produce, purchase, sell, trade in mechanical, fluid power, electronic and electric components and systems. The applicant received foreign inward remittances from M/s Poclain Hydraulics SA, France 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	23,038.54	27.02.2007	13.03.2007
2	97,573.50	01.03.2007	13.03.2007
3	99,00,000.00	20.03.2007	19.04.2007
4	1,00,00,000.00	06.07.2007	18.01.2008
5	1,00,00,000.00	31.08.2007	11.03.2008
6	1,60,00,000.00	30.12.2008	21.01.2009
7	2,00,00,000.00	13.03.2009	29.07.2009
8	2,00,00,000.00	24.08.2009	22.09.2009
9	1,40,00,448.00	25.06.2010	30.07.2010
10	2,00,18,924.00	14.01.2011	07.06.2011
11	1,47,08,044.00	13.06.2011	22.06.2011
12	2,05,00,010.00	28.12.2011	27.01.2012
13	2,01,39,330.00	21.06.2013	19.07.2013
14	16,82,00,000.00	03.10.2013	18.10.2013
15	4,98,40,000.00	13.11.2015	10.12.2015
16	7,58,50,000.00	11.05.2016	08.06.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from five days to five months 12 days approximately beyond



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the stipulated time of 30 days in respect of the remittances at Sr. Nos. 4,5,7,9 and 10. 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	1,000	100	1,00,000	10.03.2007	10.04.2007
2	99,000	100	99,00,000	07.08.2007	12.09.2007
3	1,00,000	100	1,00,00,000	18.01.2008	09.06.2008
4	1,00,000	100	1,00,00,000	21.03.2008	03.10.2008
5	3,60,000	100	3,60,00,000	22.05.2009	04.08.2009
6	2,00,000	100	2,00,00,000	09.12.2009	02.06.2010
7	1,40,000	100	1,40,00,000	20.10.2010	10.11.2010
8	3,47,000	100	3,47,00,000	27.06.2011	29.07.2011
9	2,05,000	100	2,05,00,000	15.06.2012	29.06.2012
10	29,48,000	100	29,48,00,000	16.12.2013	10.01.2014
11	3,82,000	100	4,98,31,900	11.01.2016	08.02.2016
12	5,81,400	100	7,58,43,630	06.07.2016	28.07.2016

The applicant filed the form FC-GPR as indicated above with delay ranging from one day to five months 12 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sr. Nos.1 to 6 and 8. 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. Against a remittance received on 31.08.2007 the company allotted shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	31.08.2007	1,00,00,000	21.03.2008



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The company allotted shares with delay of 23 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 May 30, 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 June 02, 2017 during which Ms. S Sri Varshini, Company Secretary, M/s V Mahesh & Associates 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 the 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 shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 7,40,19,372/- with duration of contravention ranging from five days to five months 12 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



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₹ 12,07,00,000/- with the duration of contravention ranging from one day to five months 12 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 ₹ 1,00,00,000/- with the duration of contravention being 23 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 ₹ 1,78,950/- (Rupees one lakh seventy eight thousand nine hundred and fifty 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 ₹ 1,78,950/- (Rupees one lakh seventy eight thousand nine hundred and fifty 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 Second day of June, 2017.

Sd/-



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R Kesavan
Chief General Manager