



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 : May 25, 2017  
**C.A.628/2016**

In the matter of

**M/s. Palani Hills Gardens Hotel Pvt Ltd.,**  
Perumparai Post, Manjelparappu Branch Office,  
Athoor,  
Dindigul-624212

**(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 02, 2017 (received at Reserve Bank on January 09, 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 November 02, 2007 under the provisions of the Companies Act, 1956 (Registration No. U01131TZ2007PTC014009) 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 Mr. Francis Fry, UK 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	1,82,507.98	19.02.2010	20.05.2016
2	22,38,739.67	29.07.2010	27.04.2016
3	15,62,000.00	09.12.2010	03.02.2011
4	1,03,500.00	22.12.2010	27.01.2016
5	29,39,050.00	31.12.2010	27.04.2016
6	24,54,534.00	20.05.2011	27.04.2016
7	20,76,892.00	29.07.2011	27.04.2016
8	24,67,443.90	20.09.2011	13.05.2016
9	11,61,300.00	28.10.2011	13.05.2016
10	24,66,000.00	23.12.2011	13.05.2016
11	10,61,085.00	07.06.2012	13.05.2016
12	5,99,900.00	15.11.2012	16.05.2016
13	3,80,712.50	14.03.2013	27.04.2016
14	31,52,100.00	24.07.2013	27.04.2016
15	29,10,600.00	08.06.2015	05.04.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 25 days to six years two months one day approximately



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beyond the stipulated time of 30 days in respect of the remittances. 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	242124	10	24,21,240	25.10.2010	05.07.2016
2	39050	10	15,62,000	11.02.2011	29.08.2012
3	137427	10	54,97,080	01.06.2011	05.07.2016
4	204290	10	81,71,600	12.01.2012	05.07.2016
5	41524	10	16,60,960	30.11.2012	05.07.2016
6	88320	10	35,32,800	01.09.2013	05.07.2016
7	72765	10	29,10,600	01.01.2016	08.07.2016

The applicant filed the form FC-GPR as indicated above with delay ranging from five months seven days to five years seven months 10 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. Against two remittances received on 19.02.2010 and 08.06.2015 the company allotted shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	19.02.2010	1,82,507.98	25.10.2010
2	08.06.2015	29,10,600.00	01.01.2016

The company allotted shares with delay ranging from 24 days to two months six 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



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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 22, 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 May 25, 2017 during which Shri Robesh P George, Managing Director and Shri B Viswanath, Company Secretary in Practice 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 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 ₹ 2,57,56,365.05 with duration of contravention ranging from 25 days to six years two months one day 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 ₹ 2,57,56,280/- with the duration of contravention ranging from five months seven days to five years seven months 10 days approximately; and



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(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 ₹ 30,93,107.98 with the duration of contravention ranging from 24 days to two months six 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 ₹ 2,92,260/- (Rupees two lakh ninety two thousand two hundred and sixty 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 ₹ 2,92,260/- (Rupees two lakh ninety two thousand two hundred and sixty 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 fifth day of May, 2017.

Sd/-



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**R Kesavan**  
**Chief General Manager**