



In the

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

Present

Arundhati Mech
Regional Director

Date : June 16, 2017
C.A.647/2017

In the matter of
M/s. Kovai Hills Edinfra Pvt Ltd.
SF No.262, VLB Engineering College Road,
Kovaipudur,
Coimbatore-641042

(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 February 03, 2017 (received at Reserve Bank on February 21, 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 allotment of shares, and (ii) delay in submission of Form FC-GPR on allotment of



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shares with Reserve Bank, in terms of Paragraph 9 (1) A and Paragraph 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 3, 2000.

2. The relevant facts of the case are as follows: The applicant company was incorporated on September 13, 2011 under the provisions of the Companies Act, 1956 (Registration No. U45202TZ2011PTC021415) and is engaged in Business of Construction of non-residential buildings including additions and alterations in the existing ones. The applicant received foreign inward remittances from (i) M/s Vivus Beteiligungen GmbH, Germany (ii) Raghavan Arjun Raju, Hong Kong towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	1,77,10,000	04.09.2013	17.10.2013
2	2,35,48,000	25.09.2013	17.10.2013
3	9,50,200	21.11.2014	18.12.2014
4	40,25,630	12.01.2015	23.05.2015

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 13 days to three months 11 days approximately beyond the prescribed period of 30 days in respect of remittances recorded at Sr.Nos.1 and 4. 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-GPRs as indicated below:

Sl. No.	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1.	40000	1000	4,00,00,000	27.09.2013	09.12.2013
2.	3000	10	30,000	04.11.2013	09.12.2013
3.	50010	10	9,50,190	15.12.2014	27.02.2015
4.	211428	10	40,17,132	12.02.2015	25.06.2015



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The applicant filed form FC-GPRs as indicated above with delay ranging from five days to three months 13 days approximately beyond the prescribed limit 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 applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated June 14, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide mail dated June 15, 2017 has informed that it would not be possible for them to be personally present as the authorized person was pre occupied with some professional work. Further, they have informed that they have no objection to our passing the order. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 and 3 above for which compounding has been sought. It had been submitted that the delays were unintentional. 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.

5. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 ₹ 2,17,35,630/- with the duration of contravention ranging from 13 days to three months 11 days approximately; and
- (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



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to persons resident outside India and the contravention relates to an amount of ₹ 4,49,97,322/- with the duration of contravention ranging from five days to three months 13 days approximately.

6. 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 consider that an amount of ₹ 37,370/- (Rupees thirty seven thousand three hundred and seventy only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 9 (1) B 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 ₹ 37,370/- (Rupees thirty seven thousand three hundred and seventy 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 Sixteenth day of June, 2017.

Sd/-

Arundhati Mech
Regional Director