



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 29, 2017
C.A.665/2017

In the matter of
M/s. McWane India Pvt Ltd.
(formerly Mcwane Services Pvt Ltd.)
4th & 5th Floor, Times Square,
Balasundaram Road,
Coimbatore-641 108

(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 April 25, 2017 (received at Reserve Bank on April 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 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 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 October 17, 2011 under the provisions of the Companies Act, 1956 (Registration No. U74900TZ2011PTC017507) and is engaged in Business of technical testing and analysis services. The applicant received foreign inward remittances from (i) M/s Ransom International LLC, USA (ii) M/s McWane International Holdings, LLC, USA 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	54,10,756.33	08.05.2012	12.06.2012
2	6,38,04,312.00	28.01.2013	26.03.2013
3	5,22,28,266.30	18.04.2013	01.04.2014
4	14,76,01,659.00	07.04.2014	23.04.2014
5	1,46,048.66	07.04.2014	23.04.2014

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from four days to 10 months 13 days approximately beyond the prescribed period of 30 days in respect of remittances recorded at Sr.Nos.1 to 3. 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	541075	10	54,10,750	08.11.2012	11.02.2013
2	6380430	10	6,38,04,300	20.02.2013	03.02.2017
3	5222826	10	5,22,28,260	01.06.2013	01.04.2014
4	14774770	10	14,77,47,700	23.07.2014	17.02.2015

The applicant filed form FC-GPRs as indicated above with delay ranging from two months three days to three years 10 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 23, 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 28, 2017 during which Shri G R Vasudevan, Chief Financial Officer of the company represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 and 3 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.

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 ₹ 12,14,43,334.63 with the duration of contravention ranging from four days to 10 months 13 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 to persons resident outside India and the contravention relates to an amount of ₹ 26,91,91,010/- with the duration of contravention ranging from two months three days to three years 10 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 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 ₹ 3,55,810/- (Rupees three lakh fifty five thousand eight hundred and ten 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 ₹ 3,55,810/- (Rupees three lakh fifty five thousand eight hundred and ten 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



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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 Ninth day of June, 2017.

Sd/-

**R Kesavan
Chief General Manager**