



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri. Gautam Prasad Borah
Chief General Manager

Date: June 09, 2017

C.A. No. 674/2016

In the matter of

M/s D B Realty Limited
DB House, Gen. A. K. Vaidya Marg,
Goregaon (East),
Mumbai-400063.

(Applicant)

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

Order

1. The applicant has filed the compounding application dated December 15, 2016 (received at the Reserve Bank on December 20, 2016) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR 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 1 to Foreign Exchange Management



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(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 as M/s D B Realty Ltd on January 08, 2007 under the Companies Act, 1956. Thereafter, name was changed to M/s D B Realty Pvt. Ltd. on July 09, 2007. Finally, name was again changed to M/s D B Realty Ltd. on September 23, 2009. The applicant company is engaged in the business in or outside India of construction works and that of Builders, Developers, contractors, or all kinds of works viz. Road, Bridge, Buildings, industrial/ residential/ commercial premises or Factories, Factory Sheds, Industrial Complexes and construct, erect, build, repair, re-model, demolish, develop, improve, grades, curve, pave, macadamize, cement and maintain building structures, houses, apartments, malls, restaurants, multiplexes, hospitals clubs, holiday resorts, schools, places of worship, highways, roads, paths, streets, sideways, courts, alleys, pavements and to do other similar construction, leveling of paving work, and for these purpose to purchase, take on lease, or otherwise acquire and hold any lands and prepare lay-out thereon or building of any tenure or buildings of any tenure or description wherever situated, or rights or interests there in or connected therewith works of all types, land developments and/or of soil investigation and contractor of Central Public Works Department, State Public Works Departments other Government Bodies or Semi-Government Bodies or Civil Bodies. The applicant received foreign inward remittance from M/s Bollywood Mauritius Holdings, Mauritius, M/s Trinity Capital (Eleven) Limited, Mauritius, M/s IL & FS India Realty Fund, LLC, Mauritius and M/s Walkinson Investments Limited, Cyprus towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. No.	Amount of Foreign Inward remittance (INR)	Date of receipt	Date of reporting to RBI
1.	72,00,00,000.00	19.04.2007	30.04.2007
2.	51,68,000.00	23.04.2007	30.04.2007



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3.	71,48,32,000.00	23.04.2007	30.04.2007
4.	62,53,44,000.00	30.04.2007	23.05.2007
5.	59,06,32,000.00	31.05.2007	18.06.2007
6.	66,01,12,000.00	15.06.2007	17.07.2007
7.	1,42,10,00,000.00	12.06.2007	09.07.2007
8.	68,00,00,000.00	15.06.2007	02.07.2007
9.	76,00,00,000.00	27.06.2007	18.07.2007
10.	1,90,00,000.00	24.10.2007	16.11.2007
11.	6,90,00,000.00	19.03.2009	20.05.2009
12.	99,10,00,000.00	19.03.2009	20.05.2009
13.	99,00,00,000.00	19.03.2009	20.05.2009
14.	99,00,00,000.00	30.03.2009	15.06.2009
15.	23,50,00,000.00	30.03.2009	15.06.2009
16.	10,66,50,000.00	25.04.2009	15.06.2009
17.	13,88,87,950.00	28.04.2009	15.06.2009
18.	24,67,50,000.00	06.05.2009	15.06.2009
19.	66,69,00,000.00	06.05.2009	15.06.2009
20.	21,53,25,000.00	15.05.2009	15.06.2009
21.	40,23,60,000.00	18.05.2009	15.06.2009
22.	18,96,40,000.00	25.05.2009	15.06.2009
23.	84,87,050.00	10.08.2009	24.09.2009
Total	1144,60,88,000.00		

The applicant reported receipt of remittances to the Reserve Bank with a delay ranging from 10 days to 1 month and 16 days approximately beyond the stipulated time of 30 days in respect of remittances recorded at serial no.11 to 19 and 23 above. 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/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No.	No. of shares	Face Value (INR)	Premium	Amount (INR)	Date of allotment	Reported to RBI on
1	3,60,000	10/-	3990	144,00,00,000.00	05.05.2007	31.05.2007
2	1,56,336	10/-	3990	62,53,44,000.00	05.05.2007	01.06.2007



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3	10,27,936	10/-	3990	411,17,44,000.00	27.06.2007	18.07.2007
4	4,750	10/-	3990	1,90,00,000.00	16.11.2007	15.12.2007
5	9,37,500 CCDs		5,600	525,00,00,000.00	13.08.2009	25.09.2009
Total				1144,60,88,000.00		

The applicant filed form FC-GPRs in respect of the allotments as indicated at serial no. 5 above with a delay of 13 days approximately beyond the prescribed limit. Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 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 the Reserve Bank's letter No. FED.MRO.CEFA/2016-17 dated June 07, 2017 for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on June 08, 2017 during which Mr. S A K Narayanan, Vice President and Company Secretary and Mr. Avinash Mane, Officer represented the applicant. The authorised representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof the matter may be viewed leniently. 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.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:



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(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed in paragraph 2 above. The contravention relates to an amount of Rs.4,44,26,75,000/- and the duration is ranging from 10 days to 1 month and 16 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the 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 Rs.525,00,00,000/- with a delay of 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 Rs. 4,20,000/- (Rupees Four Lakh Twenty Thousand 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 Rs. 4,20,000/- (Rupees Four Lakh Twenty Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai 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.



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8. The above order is passed only in respect of contraventions of Para 9(1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Date: June 09, 2017

Compounding Authority

Sd/-

(G. P. Borah)
Chief General Manager