



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

R. Subramanian
Regional Director

Date: July 25, 2017
C.A. HYD 215

In the matter of

M/s. Maxking (India) Footwear Pvt. Ltd.
C/o. Apache SEZ Development India Private Limited.
Apache SEZ
Mambattu Village, Tada, Nellore
Andhra Pradesh 524401

(Applicant)

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

Order

The applicant has filed the compounding application dated May 06, 2017 received on May 22, 2017 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 remittances; (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares towards subscription to equity to a person



resident outside India in terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 of Schedule 1 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 3rd May 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:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 2013 on 28.07.2014. The company is engaged in the business of manufacturing leather footwear such as shoes, sandals, chappals etc.
- b) The applicant had received foreign inward remittances from foreign investor towards advance for subscription to equity shares as indicated below.

Sl No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Maxking Footwear Limited	32015000	27.07.2015	29.08.2015
2	Maxking Footwear Limited	19401000	09.10.2015	07.11.2015
3	Maxking Footwear Limited	20316000	08.02.2016	06.04.2016
4	Maxking Footwear Limited	23555000	09.03.2016	05.04.2016
5	Maxking Footwear Limited	33100000	09.05.2016	10.06.2016
6	Maxking Footwear Limited	6727000	01.07.2016	26.07.2016
7	Maxking Footwear Limited	23198000	08.09.2016	16.11.2016
	Total	158312000		



The applicant reported receipt of remittances towards share subscription amounting to **Rs,15,83,12,000 /-** to the Regional Office of Reserve Bank of India out of which remittance amounting to **Rs, 10,86,29,000/-** was reported with a delay ranging from 2 days to 1 month 9 days approximately as indicated 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.

- c) The company allotted equity shares and filed form FC-GPRs as indicated below.

Sl No	Name of investor	Date of allotment of shares	Number of shares/CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Maxking Footwear Ltd.	20.01.2016	9999	99990	22.02.2016
2	Li Yan Oi*	20.01.2016	1	10	22.02.2016
3	Maxking Footwear Ltd.	20.01.2016	1063800	31914000	22.02.2016
4	Maxking Footwear Ltd.	30.03.2016	646700	19401000	28.05.2016
5	Maxking Footwear Ltd.	15.06.2016	2565700	20316000	24.06.2016
6	Maxking Footwear Ltd.	15.06.2016		23555000	
7	Maxking Footwear Ltd.	15.06.2016		33100000	
8	Maxking Footwear Ltd.	26.08.2016	224200	6726000	26.09.2016



9	Maxking Footwear Ltd.	16.01.2017	1159900	23198000	27.01.2017
	Total		5670300	158310000@	

*Nominee share holder as per MoA

@Company submitted request for retaining ₹ 2000 as the cost of remitting the amount will be more than the amount due to refund.

The applicant filed form FCGPRs for the allotment of shares amounting to **Rs, 5,81,41,000** /- as indicated above with a delay ranging from 1 day to 29 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/103/14.66.003/2017-18 dated July 14, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on July 19, 2017 during which Shri V.P. Kuriachan, Chartered Accountant represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not willful or with a malafide intention and was on account of delay in obtaining KYC documents from the remitting bank. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the



basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to Rs, 10,86,29,000/- and the delay ranges from 2 days to 1 month 9 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of Rs, 5,81,41,000/- and the period of contravention ranges from 1 day to 29 days approximately.

5. 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 contravention is to be compounded and I consider that an amount of Rs. 49,140/- (Rupees Forty Nine Thousand One Hundred Forty Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1) (A) and paragraph 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



Compounding of contraventions under FEMA 1999
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Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 49,140/- (Rupees Forty Nine Thousand One Hundred Forty Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 25th day of July 2017

Sd/-

(R. Subramanian)
Regional Director