



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. G. P. Borah
Chief General Manager

Date: August 28, 2017

C.A. No. 699/2017

In the matter of

M/s Minaean Habitat India Pvt. Ltd.
B-802, Lakhani Galaxi,
Sector 15, CBD Belapur
Navi Mumbai – 400 614

(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 May 17, 2017 (received at the Reserve Bank on May 29, 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 remittance towards subscription to equity; (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; and (iii) delay in issuance of equity instruments to the foreign investor, a person resident outside India beyond the prescribed time period of 180 days from the receipt of the inward remittance in terms



of paragraphs 9(1)(A), 9(1)(B) and paragraph 8 respectively, 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 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 August 24, 2001 under the Companies Act, 1956. Its main activity is to carry on business of builders, developers, contractors, buying, selling and otherwise dealing in land (leasehold or freehold) and buildings or flats or tenements or residential, commercial, industrial premises, godowns, sheds, offices, garages, warehouses, shops either furnished or unfurnished and to undertake buildings and structural construction works and to work as builders, contractors, sub-contractors in India and abroad. To develop any land and preparing the same for building purpose, constructing, altering, pulling down, decorating, maintaining, furnishing, fitting up and improving buildings and by planting, paving, draining, letting on building lease or building agreement and by consolidating connecting or sub-dividing properties by leasing and disposing of the same and by advancing money to and entering into contracts and agreements with builders, tenants, and others, and also by promoting immigration, establishing towns, villages, settlements and townships. Developing exporting importing and trading of MVI steel home systems technologies and diversification into various cold rolled steel and other metal components of MVI steel home systems. The applicant received foreign inward remittance from M/s Minaean Ventures Inc, Canada; M/s Minaean Building Solutions, Canada; M/s Minaean International Inc., Canada; and M/s. Lines Overseas Management, USA towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. no	Amount (INR)	Date of receipt	Date of reporting
1	6,05,897.00	30.08.2001	17.06.2004
2	6,06,097.00	24.09.2001	17.06.2004
3	15,24,695.00	17.10.2001	17.06.2004
4	1,79,161.00	02.11.2001	17.06.2004
5	4,51,499.00	14.01.2002	17.06.2004
6	4,59,593.00	07.03.2002	17.06.2004



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7	3,11,688.00	29.04.2002	17.06.2004
8	3,05,195.00	10.09.2002	17.06.2004
9	3,02,000.00	04.10.2002	04.03.2009
10	1,51,550.00	16.10.2002	04.03.2009
11	3,08,300.00	01.11.2002	04.03.2009
12	1,54,150.00	03.12.2002	04.03.2009
13	3,06,900.00	17.12.2002	04.03.2009
14	3,09,100.00	13.01.2003	04.03.2009
15	1,55,950.00	17.02.2003	04.03.2009
16	1,56,200.00	18.02.2003	04.03.2009
17	3,16,300.00	24.02.2003	04.03.2009
18	1,61,450.00	28.03.2003	04.03.2009
19	1,59,100.00	07.04.2003	04.03.2009
20	3,32,100.00	05.05.2003	04.03.2009
21	16,39,316.00	05.05.2003	04.03.2009
22	6,78,762.00	22.05.2003	04.03.2009
23	5,08,385.00	10.06.2003	04.03.2009
24	3,38,027.00	02.07.2003	04.03.2009
25	3,12,000.00	07.07.2003	04.03.2009
26	6,01,600.00	18.07.2003	04.03.2009
27	3,27,037.00	25.07.2003	04.03.2009
28	3,26,920.00	12.08.2003	04.03.2009
29	3,25,445.00	18.08.2003	04.03.2009
30	4,93,650.00	05.09.2003	04.03.2009
31	2,65,386.00	24.09.2003	04.03.2009
32	62,400.00	01.10.2003	04.03.2009
33	6,75,008.00	14.10.2003	04.03.2009
34	6,66,498.00	06.11.2003	04.03.2009
35	5,14,769.00	14.11.2003	04.03.2009
36	6,89,741.00	27.11.2003	04.03.2009
37	6,19,657.00	04.12.2003	04.03.2009
38	6,90,769.00	02.01.2004	04.03.2009
39	6,85,632.00	20.01.2004	04.03.2009
40	6,82,059.00	28.01.2004	04.03.2009
41	15,03,634.00	11.02.2004	04.03.2009
42	5,83,804.00	09.03.2004	04.03.2009
43	90,817.00	09.03.2004	04.03.2009
44	3,34,897.00	19.03.2004	04.03.2009
45	13,07,964.00	06.04.2004	04.03.2009
46	12,81,378.00	15.04.2004	04.03.2009
47	6,36,757.00	03.05.2004	04.03.2009
48	9,54,576.00	07.05.2004	04.03.2009



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49	6,49,399.00	17.05.2004	04.03.2009
50	16,42,569.00	28.05.2004	04.03.2009
51	6,56,444.00	09.06.2004	04.03.2009
52	9,74,368.00	14.06.2004	04.03.2009
53	16,73,794.00	23.06.2004	04.03.2009
54	68,636.00	15.07.2004	04.03.2009
55	53,20,711.00	26.07.2004	11.07.2012
56	20,53,583.00	03.08.2004	04.03.2009
57	17,50,147.00	22.02.2005	04.03.2009
58	32,01,337.00	13.07.2005	04.03.2009
59	3,51,518.00	03.08.2005	04.03.2009
60	7,39,566.00	13.10.2005	04.03.2009
61	9,54,455.00	03.01.2006	04.03.2009
62	9,45,735.00	25.01.2006	04.03.2009
63	75,96,800.00	10.02.2006	04.03.2009
64	10,26,000.00	17.03.2006	04.03.2009
65	3,76,600.00	07.07.2006	04.03.2009
66	3,32,760.00	09.05.2006	04.03.2009
67	67,123.00	09.05.2006	04.03.2009
68	19,28,985.00	19.05.2006	11.07.2012
69	41,70,000.00	01.09.2006	11.07.2012
70	39,83,000.00	21.09.2007	11.07.2012
71	81,00,000.00	12.03.2008	11.07.2012
72	38,80,000.00	07.04.2008	11.07.2012
73	25,50,380.00	08.05.2008	11.07.2012
74	93,44,620.00	08.05.2008	11.07.2012
75	2,09,00,000.00	11.06.2008	03.06.2015
76	60,00,000.00	10.07.2009	03.06.2015
77	21,70,500.00	05.12.2009	03.06.2015
78	32,62,500.00	17.04.2010	03.06.2015
79	44,40,000.00	14.08.2010	03.06.2015
80	41,89,500.00	21.08.2010	03.06.2015
81	8,76,000.00	28.08.2010	03.06.2015
82	42,19,600.00	20.09.2011	03.06.2015
83	15,43,500.00	14.12.2011	03.06.2015
84	2,50,36,250.00	21.11.2011	10.10.2014
85	2,50,38,750.00	21.11.2011	10.10.2014
86	2,56,200.00	23.12.2011	03.06.2015
87	76,00,000.00	04.06.2015	22.07.2015
Total	19,49,25,143.00		



The applicant reported receipt of remittances to the Reserve Bank on dates indicated above and with a delay ranging from 1 year 8 months 7 days to 7 years 10 months 14 days approximately beyond the stipulated time of 30 days in respect of remittances recorded at serial nos. 1 to 86 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 (INR)	Amount (INR)	Date of allotment	Date of reporting
1	90,000	10	40	45,00,000.00	10.03.2004	17.06.2004
2	4,00,000	10	30	1,60,00,000.00	31.03.2004	04.03.2009
3	7,40,000	10	30	2,96,00,000.00	06.09.2007	04.03.2009
4	7,50,000	10	30	3,00,00,000.00	15.03.2010	11.07.2012
5	3,83,615	10	30	1,53,44,620.00	05.05.2015	27.11.2015
6	21,25,714	10	30	8,50,28,567.00	05.05.2015	27.11.2015
7	1,90,000	10	30	76,00,000.00	01.08.2015	27.11.2015
Total	46,79,329			18,80,73,187.00		

The applicant filed form FC-GPRs as indicated above with a delay of 2 months 7 days to 4 years 10 months 4 days approximately beyond the prescribed limit in respect of allotment indicated at Sr. No. 1 to 7 above. 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 company has received inward remittances amounting to Rs.19,49,25,143/- and allotted shares in 6 tranches against an amount of Rs. 18,80,73,187/- while refunding an excess amount of Rs.69,04,233/-.The Company has issued shares beyond the prescribed time period of 180 days, prior to obtaining



specific approval from Reserve Bank of India. Approval was obtained on October 28, 2015 while the shares were issued on May 05, 2015. The delay in allotment of shares ranges from 1 year 4 months 7 days to 6 years 5 months 27 days approximately beyond the prescribed time period of 180 days. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of security by A person resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Government of India.

5. The applicant was given an opportunity for personal hearing vide e-mail dated July 12, 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 July 17, 2017 during which Mr. Dilip B. Khadka, Assistant Manager and Mr. Natwar Thakrar, Chartered Accountant represented the applicant in the cabin of Shri G. P. Borah, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing a lenient view may be taken 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 as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

6. 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:

(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.18,73,25,143/- and the duration ranging from 1 year 8 months 7 days to 7 years 10 months 14 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.18,80,73,187/- with a delay ranging from 2 months 7 days to 4 years 10 months 4 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application not refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.13,03,73,386/- and the duration of the contravention is ranging from 1 year 4 months 7 days to 6 years 5 months 27 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 Rs. 29,35,462/- (Rupees Twenty Nine Lakh Thirty Five Thousand Four Hundred Sixty Two only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of Paragraph 8, 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



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amount of Rs. 29,35,462/- (Rupees Twenty Nine Lakh Thirty Five Thousand Four Hundred Sixty Two 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.

9. The above order is passed only in respect of contraventions of paragraph 9(1)(A), 9(1)(B) and paragraph 8 of Schedule I 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.

Dated August 28, 2017.

Compounding Authority

Sd/-

(G. P. Borah)
Chief General Manager