



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: August 10, 2017

C.A. No. 691/2017

In the matter of

M/s MAICO Ventilation Pvt. Ltd.
Plot No. I-02, (Part I), Khed City,
Kanersar Village, Tal – Khed. Rajgurunagar,
Pune-410505.

(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 April 18, 2017 (received at the Reserve Bank on April 25, 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) equity instruments were issued to the foreign investor, a person resident outside India beyond 180 days of the receipt of the inward remittance, (ii) delay in reporting receipt of foreign inward remittance towards subscription to equity and (iii) 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 8, 9(1)(A) and 9(1)(B) 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 September 13, 2006 under the Companies Act, 1956 and is engaged in the business to design, to act as manufacturers, buyers, sellers, importers, exporters and agents for all kinds of air-conditioning plants, accessories, articles, fittings, such as all types of ventilation fans, duct and ducting related accessories, machine tools, fixtures and molds, spare parts and equipment and to deal in and to produce articles and things which may be usefully or conveniently combined with the business of the company and to provide plant services, repairs and maintenance of the ventilation system. The applicant received foreign inward remittance from M/s MAICO Holding GmbH, Germany; M/s MAICO Gulf LLC (Formerly known as M/s Dynair Gulf FZCO), UAE; Mr Girish Hiranandani, UAE and Mr Manish Hiranandani, UAE 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.	2,50,000.00	23.07.2008	30.12.2014
2.	12,00,000.00	31.10.2008	10.01.2013
3.	12,00,000.00	12.11.2008	10.01.2013
4.	13,19,460.00	01.07.2011	25.07.2011
5.	6,53,706.41	02.08.2011	30.08.2011
6.	7,26,940.05	03.10.2011	31.10.2011
7.	3,93,658.65	01.11.2011	15.11.2011
8.	7,88,287.50	01.11.2011	15.11.2011
9.	3,93,658.65	01.11.2011	15.11.2011
10.	21,33,833.00	20.11.2013	13.12.2013
11.	21,33,833.00	22.11.2013	13.12.2013
12.	42,48,130.00	25.11.2013	13.12.2013
13.	24,46,301.00	13.05.2014	24.05.2014



14.	48,94,990.00	13.05.2014	24.05.2014
15.	24,46,301.00	13.05.2014	24.05.2014
16.	1,00,00,000.00	22.12.2014	31.03.2015
17.	50,00,000.00	08.01.2015	02.02.2015
18.	50,00,000.00	08.01.2015	20.01.2015
19.	1,75,00,000.00	06.10.2015	16.11.2015
20.	87,50,000.00	08.10.2015	19.10.2015
21.	87,50,000.00	08.10.2015	19.10.2015
Total	8,02,29,099.26		

The applicant reported receipt of remittances to the Reserve Bank with a delay ranging from 11 days to 6 years 4 months 7 days approximately beyond the stipulated time of 30 days in respect of remittances recorded at serial no.1 to 3, 16 and 19 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/debentures and filed FC-GPRs as indicated below:

Sr. No.	No. of shares	Face Value (INR)	Premium (INR)	Amount (INR)	Date of allotment	Reported to RBI on
1	9758	100	116	21,07,728.00	24.12.2011	30.01.2012
2	4848	100	116	10,47,168.00	24.12.2011	30.01.2012
3	5187	100	116	11,20,392.00	24.12.2011	30.01.2012
4	9483	100	125	21,33,675.00	25.01.2014	25.02.2014
5	9483	100	125	21,33,675.00	25.01.2014	25.02.2014
6	18880	100	125	42,48,000.00	25.01.2014	25.02.2014
7	11325	100	116	24,46,200.00	28.06.2014	17.07.2014
8	11325	100	116	24,46,200.00	28.06.2014	17.07.2014
9	22661	100	116	48,94,776.00	28.06.2014	17.07.2014
10	25252	100	98	49,99,896.00	16.02.2015	20.04.2015
11	25252	100	98	49,99,896.00	16.02.2015	20.04.2015
12	50505	100	98	99,99,990.00	16.02.2015	20.04.2015
13	10126	100	137	23,99,862.00	09.09.2015	21.09.2015
14	1054	100	137	2,49,798.00	09.09.2015	21.09.2015



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15	30594	100	186	87,49,884.00	02.12.2015	07.04.2016
16	30594	100	186	87,49,884.00	02.12.2015	07.04.2016
17	61188	100	186	1,74,99,768.00	02.12.2015	07.04.2016
Total	337515			8,02,26,792.00		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 1 month 5 days to 3 months and 6 days approximately beyond the prescribed limit in respect of allotments indicated at serial no. 10 to 12 and 15 to 17 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 allotment of shares amounting to Rs. 26,50,000/- was made beyond 180 days from the date of receipt of investment after seeking specific approval from the Reserve Bank of India vide the company's letter dated January 14, 2015. Accordingly, the Reserve Bank of India vide letter dated August 28, 2015 accorded approval for issuance of shares. The allotment of shares was therefore made with a delay ranging from 5 years 8 months 6 days to 5 years 11 months 25 days approximately. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, which states that 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 the 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 18, 2017 during which Mr. Abhiyank Vyas, Finance Manager and Mr. Nikhil N. Chitale, Practicing Company Secretary 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. The representatives of the applicant requested that in view thereof, the compounding application 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.

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 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 amount 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. 26,50,000/- and the duration of the contravention ranges from 5 years 8 months 6 days to 5 years 11 months 25 days approximately.

(b) 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 of shares as detailed in paragraph 2 above. The contravention relates to an amount of Rs. 3,01,50,000/- and the duration is ranging from 11 days to 6 years 4 months 7 days approximately.

(c) 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



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persons resident outside India and the contravention relates to an amount of Rs.5,49,99,318/- with a delay ranging from 1 month 5 days to 3 months and 6 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 contraventions 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. 1,27,360/- (Rupees One Lakh Twenty Seven Thousand Three Hundred Sixty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 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 amount of Rs. 1,27,360/- (Rupees One Lakh Twenty Seven Thousand Three Hundred Sixty 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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9. The above order is passed only in respect of contraventions of Para 8, 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: August 10, 2017

Compounding Authority

Sd/-

(Gautam Prasad Borah)
Chief General Manager