



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 : July 26, 2017
C.A.656/2016

In the matter of
M/s. WAK Homes & Fashions Pvt Ltd.
10th Floor, Gee Gee Emerald,
312, Village Road, Nungambakkam,
Chennai-600034

(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 04, 2017 (received at Reserve Bank on April 05, 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



M/s. WAK Homes & Fashions Pvt Ltd. – C.A.656/2016

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 May 09, 2007 under the provisions of the Companies Act, 1956 (Registration No. U55101TN2007PTC063431) and is engaged in business of hotels, rooming houses, camps and other lodging places. The applicant received foreign inward remittances from Mr. Wayne Alexander Spears, 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	1,12,09,164.24	23.11.2007	19.05.2011
2	1,58,79,682.40	29.11.2007	19.05.2011
3	16,19,797.50	18.03.2008	19.05.2011

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from three years one month one day to three years four months 26 days approximately beyond the prescribed period of 30 days in respect of remittances. 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	2708880	10	2,70,88,800	06.12.2007	06.01.2010
2	161980	10	16,19,800	26.03.2008	06.01.2010

The applicant filed form FC-GPRs as indicated above with delay ranging from one year eight months 10 days to two years 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 July 24, 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 July 26, 2017 during which Shri Arvind Madhav Mudaliyar, General Manager 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 during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:



M/s. WAK Homes & Fashions Pvt Ltd. – C.A.656/2016

- (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 ₹ 2,87,08,644.14 with the duration of contravention ranging from three years one month one day to three years four months 26 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 ₹ 2,87,08,600/- with the duration of contravention ranging from one year eight months 10 days to two years 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 ₹ 4,74,300/- (Rupees four lakh seventy four thousand three hundred 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 ₹ 4,74,300/- (Rupees four lakh seventy four thousand three hundred 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



M/s. WAK Homes & Fashions Pvt Ltd. – C.A.656/2016

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 of accordingly.

Dated this Twenty Sixth day of July, 2017.

Sd/-

R Kesavan
Chief General Manager