



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 : August 10, 2017
C.A.660/2016

In the matter of

M/s. Bhalakh Realtors Pvt Ltd.
Hall Mark Towers, 4th Floor,
Door No. 550 (old No. 136),
T T K Road, Alwarpet,
Chennai-600018

(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 18, 2017 (received at Reserve Bank on April 19, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued



M/s. Bhalakh Realtors Pvt Ltd. – C.A.660/2016

there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (iii) delay in allotment of shares beyond 180 days, in terms of Paragraph 9 (1) A ,Paragraph 9 (1) B and Paragraph 8 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 April 23, 2007 under the provisions of the Companies Act, 1956 (Registration No. U70109TN2007PTC063232) and is engaged in Business of development of township. The company has been earlier compounded for contraventions of Paragraphs 9(1) A vide compounding order No. C.A.008/2013 dated January 21, 2013. Subsequent to the order, the applicant received foreign inward remittances from M/s Jarvinia (Cyprus) Ltd., Cyprus 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	20,95,507.25	30.01.2013	01.02.2013
2	32,18,196.52	13.02.2013	01.03.2013
3	27,09,000.00	18.03.2013	25.03.2013
4	96,42,937.50	03.04.2013	18.04.2013
5	59,45,000.00	20.06.2013	17.07.2013
6	14,52,099.00	13.08.2013	26.08.2013
7	7,25,500.00	23.09.2013	09.10.2013
8	24,50,370.00	14.11.2013	05.12.2013
9	3,00,75,463.44	30.09.2014	20.10.2014
10	30,91,000.00	01.12.2014	15.12.2014
11	31,10,115.06	15.12.2014	06.07.2016
12	1,98,45,808.00	06.05.2015	01.06.2015
13	8,92,712.94	04.06.2015	20.06.2015

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay of one year five months 21 days approximately beyond the prescribed period of 30 days in respect of remittances recorded at Sr.No.11. Whereas, in terms of



M/s. Bhalakh Realtors Pvt Ltd. – C.A.660/2016

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	801820	10	80,18,200	22.03.2013	17.04.2013
2	1703490	10	1,70,34,900	29.08.2013	27.09.2013
3	317450	10	31,74,500	12.05.2014	13.01.2015
4	3007500	10	3,00,75,000	04.11.2014	13.01.2015
5	309100	10	30,91,000	09.12.2014	13.01.2015
6	311000	10	31,10,000	18.12.2014	13.01.2015
7	1984200	10	1,98,42,000	06.05.2015	14.09.2015
8	89140	10	8,91,400	04.06.2015	14.09.2015

The applicant filed form FC-GPRs as indicated above with delay ranging from four days to seven months one day approximately beyond the prescribed limit in respect of the allotments at Sr. Nos.3 to 5,7 and 8. 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. Against a remittance received on 23.09.2013 the company allotted shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	23.09.2013	7,25,500.00	12.05.2014

The company allotted shares with delay of one month 19 days approximately beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in



terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated August 04, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant did not appear for the personal hearing on the said date i.e. August 10, 2017. 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 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 ₹ 31,10,115.06 with the duration of contravention being one year five months 21 days approximately;
- 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 ₹ 5,70,73,900/- with the duration of contravention ranging from four days to seven months one day approximately; and
- c)** Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 7,25,500/- with the duration of contravention being one month 19 days approximately.



M/s. Bhalakh Realtors Pvt Ltd. – C.A.660/2016

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 consider that an amount of ₹ 97,971/- (Rupees ninety seven thousand nine hundred and seventy one only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 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 ₹ 97,971/- (Rupees ninety seven thousand nine hundred and seventy one 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 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 Tenth day of August, 2017.

Sd/-

R Kesavan
Chief General Manager