



In the

**Reserve Bank of India**  
Foreign Exchange Department  
Fort Glacis, No.16, Rajaji Salai  
Chennai 600 001

Present

**P Ramesh**  
**Assistant General Manager**

Date : September 01, 2017  
**C.A.698/2017**

In the matter of

**M/s. Kohnle Heat Treating Systems Pvt Ltd.,**  
Plot No.236 & 237, SIDCO Industrial Estate,  
Thirumudivakkam,  
Chennai- 600044

**(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 July 27, 2017 (received at Reserve Bank on August 01, 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)



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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 (iii) allotment of shares prior to receipt of consideration and (iv) delay in allotment of shares 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 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 04, 2007 under the provisions of the Companies Act, 1956 (Registration No. U29299TN2007FTC064618) and is engaged in Business of machining; treatment and coating of metals. The applicant received foreign inward remittance from M/s. Wolfgang Kohnle GMBH, Germany towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No	Amount of Foreign Inward Remittance (in Rs.)	Date of receipt	Reported to RBI on
1	1,93,974.00	08.12.2010	19.07.2016

The applicant reported receipt of remittance to the Reserve Bank on the date indicated above with delay of five years six months 11 days approximately beyond the stipulated time of 30 days in respect of the remittance. 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-GPR as indicated below:

Sl. No.	No. of shares/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	5100	10	51,000.00	04.09.2007	31.01.2017



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2	12998	10	1,39,338.56	28.11.2012	31.01.2017
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The applicant filed the form FC-GPRs as indicated above with delay ranging from four years one month three days to nine years three months 27 days approximately beyond the stipulated time of 30 days. 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 company allotted 5100 shares of ₹10/- each on 04.09.2007. The consideration towards the same was received by way of inward remittance on 08.12.2010 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment of shares
1	08.12.2010	51,000	04.09.2007

The company received the consideration towards the allotment with delay of three years three months four days approximately. 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. Out of the remittance received on 08.12.2010, the company allotted 12998 shares of ₹10/- each at ₹10.72 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	08.12.2010	1,39,338.56	28.11.2012

The company allotted shares with delay of one year five months 20 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.



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6. The applicant vide letter dated July 27, 2017 chose not to appear for any personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 to 5 above for which compounding has been sought. It had been submitted that the delays were unintentional. 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.

7. 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 remittance towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 1,93,974/- with duration of contravention being five years six months 11 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. The contravention relates to an amount of ₹ 1,90,338.56 with the duration of contravention ranging from four years one month three days to nine years three months 27 days approximately;
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to allotment of shares prior to receipt of consideration. The contravention relates to an amount of ₹ 51,000/- with the duration of contravention being three years three months four days approximately; and
- (d) 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 ₹ 1,39,338.56 with the duration of contravention being one year five months 20 days approximately.



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8. 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 ₹ 97,590/- (Rupees ninety seven thousand five hundred and ninety only) will meet the ends of justice.

9. 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 ₹ 97,590/- (Rupees ninety seven thousand five hundred and ninety 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 First day of September, 2017.

**Sd/-**

**P Ramesh**  
**Assistant General Manager**