



In the  
Reserve Bank of India  
Foreign Exchange Department  
Ahmedabad-380009

Present

Jayant Kumar Dash  
Chief General Manager (The Regional Director)

September 15, 2017  
CEFA.CO.ID.8005 / C.A.No. AHM- 88 / 2017-18

Matter

M/s Kuma Engineering Pvt. Ltd.  
(CIN: U31300GJ2016PTC093254)  
1<sup>st</sup> Floor, 105, Business Square, Opp. Ramdev Food Products, N H 8,  
Changodar, Sanand Taluka, Ahmedabad - 382213  
Gujarat

**(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 there under, I pass the following order:

**Order**

The applicant has filed compounding application dated June 23, 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of paragraphs 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 3<sup>rd</sup> May 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 5, 2016 under the provisions of the Companies Act, 1956 (CIN: U31300GJ2016PTC093254). The company is engaged in manufacturing of other electrical equipment. The applicant company has received total nine inflows amounting to ₹1,93,00,000/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

**3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected: (Table -1)**

Sr. No.	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	Mrs. Jayshri B. Patel Shri Bimal B. Patel	28/09/2016	500000	16/12/2016	49 days
2	Mrs. Jayshri B. Patel Shri Bimal B. Patel	07/10/2016	1500000	18/01/2017	73 days
3	Mrs. Jayshri B. Patel Shri Bimal B. Patel	19/10/2016	1200000	18/01/2017	61 days
4	Mrs. Jayshri B. Patel Shri Bimal B. Patel	27/10/2016	2000000	18/01/2017	53 days
5	Mrs. Jayshri B. Patel Shri Bimal B. Patel	28/11/2016	3000000	18/01/2017	21 days
6	Mrs. Jayshri B. Patel	09/02/2017	500000	18/05/2017	68 days



	Shri Bimal B. Patel				
7	Mrs. Jayshri B. Patel Shri Bimal B. Patel	16/02/2017	2000000	05/04/2017	18 days
8	Mrs. Jayshri B. Patel Shri Bimal B. Patel	02/03/2017	6600000	12/04/2017	11 days
9	Mrs. Jayshri B. Patel Shri Bimal B. Patel	21/02/2017	2000000	12/04/2017	20 days
	<b>Grand Total (A+B)</b>		<b>19300000</b>		

\* The date for calculation of delay under 9(1)(A) taken as date of inflow reporting by Company to AD.

4. The applicant reported the receipt of nine inward remittances, amounting to ₹1,93,00,000/- to the Ahmedabad Regional Office of the Reserve Bank of India. All the inflows amounting to ₹1,93,00,000/- were reported with a delay ranging from 11 to 73 days. 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. The applicant allotted equity shares and filed FC-GPRs as stated below:

**Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)**

Sr. No.	Name of the Foreign Investor	No of shares issued	Amount of shares (₹)	Date of issue of shares	Date of submission of FC-GPR to RBI*	Days delay excluding prescribed time of 30 days
1	Mrs. Jayshri B. Patel Shri Bimal B. Patel	10000	100000	28/09/2016	23/03/2017	146 days
2	Mrs. Jayshri B. Patel Shri Bimal B. Patel	810000	8100000	29/11/2016	09/02/2017	42 days
3	Mrs. Jayshri B. Patel Shri Bimal B. Patel	1110000	11100000	11/03/2017	18/04/2017	8 days
	<b>Total</b>	<b>1930000</b>	<b>19300000</b>			



*\* For calculation of days of delay under 9(1)(B) date of reporting to AD bank is taken as reporting to RBI.*

6. As indicated in the table above, the applicant has filed three form FC-GPRs amounting to ₹1,93,00,000/-. All the three form FC-GPRs were filed with a delay ranging from 8 to 146 days beyond the prescribed timeline of 30 days. 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 the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.367/06.04.15 (K)CEFA/2017-18 dated September 13, 2017 for further submission in person and /or producing documents, if any, in support of the application. Chartered Accountant Shri Umang S. Shah (M/s Umang Shah & Co., CA) represented the applicant for the personal hearing on September 15, 2017. They admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

8. The representative 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.



9. I have given my careful consideration to the documents on record and submission 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 dated May 3, 2000:** Due to delay in reporting of receipt of foreign inward remittances towards shares as detailed in paragraph 4 above. The amount of contravention involved is ₹1,93,00,000/- and the delay is for approximately 11 to 73 days.

**B) Paragraph 9 (1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000:** Due to delay in submission of form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹1,93,00,000/- and the delay is for approximately 8 to 146 days .

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 therefore, I consider that amount of penalty of ₹28,665/- (Rupees Twenty eight thousand six hundred sixty five only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹28,665/- (Rupees Twenty eight thousand six hundred sixty five only) which



shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 15<sup>th</sup> day of September, 2017.

Sd/-

(Jayant Kumar Dash)

Chief General Manager (Regional Director)