



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 : November 09, 2017
C.A.728/2017

In the matter of

M/s. EDAC Engineering Ltd.
No.88, Mount Road,
Guindy,
Chennai-600 032

(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 October 23, 2017 (received at Reserve Bank on October 24, 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



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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 June 26, 1987 under the provisions of the Companies Act, 1956 (Registration No. U45201TN1987PLC014584) and is engaged in business of construction and maintenance of power plants. The applicant received foreign inward remittances from M/s EDAC Universe Pte. Ltd., Singapore 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	3,00,00,000.00	25.04.2008	20.05.2008
2	5,04,00,000.00	07.07.2008	05.08.2008
3	3,36,31,677.77	23.03.2009	07.04.2009
4	76,11,326.80	25.03.2009	07.04.2009
5	7,42,709.01	18.08.2009	29.09.2009
6	13,278.18	26.08.2009	29.09.2009
7	1,008.00	01.09.2009	20.09.2009
8	13,34,29,208.00	21.12.2015	28.01.2016
9	82,30,792.00	23.12.2015	28.01.2016
10	5,99,40,000.00	31.12.2015	28.01.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from three days to 11 days approximately beyond the prescribed period of 30 days in respect of the remittances at Sl. Nos. 5,6,8 and 9. 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	1200000	10	8,04,00,000	07.07.2008	05.08.2008
2	600000	10	4,20,00,000	25.09.2009	01.10.2009
3	95999900	10	95,99,99,000	15.06.2011	13.07.2011
4	14166000	10	14,16,60,000	24.12.2015	22.02.2016
5	5994000	10	5,99,40,000	31.12.2015	22.02.2016

The applicant filed form FC-GPRs as indicated above with delay ranging from 22 days to 29 days approximately beyond the prescribed limit in respect of the allotments at Sl. Nos.4 and 5. 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 November 03, 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 November 09, 2017 during which Ms. Nethra J, Company Secretary 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 submissions made by the applicant in the compounding application and during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:



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(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 ₹14,24,15,987.19 with the duration of contravention ranging from three days to 11 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 ₹ 20,16,00,000/- with the duration of contravention ranging from 22 days to 29 days 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 ₹ **40,720/-** (Rupees forty thousand seven hundred and twenty 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 ₹ **40,720/-** (Rupees forty thousand seven hundred and twenty 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



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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 Ninth day of November, 2017.

Sd/-

R Kesavan
Chief General Manager