



In the

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

Present

B Sarangi
Deputy General Manager

Date : November 08, 2017
C.A.716/2017

In the matter of

M/s. Bhomiaji Infrastructure Pvt Ltd.,
4/177, Ettayapuram Road,
Mela Arasadi,
Tuticorin- 628002

(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 September 20, 2017 (received at Reserve Bank on September 26, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in



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refund of excess inward remittance in terms of Paragraph 8 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 May 24, 2006 under the provisions of the Companies Act, 1956 (Registration No. U45201TN2006PTC059993) and is engaged in business of purchase, sale, letting and operating of real estate such as residential and non-residential buildings, developing & subdividing real estate into lots, lessors of real property, real estate agents, brokers and managers engaged in renting, buying and selling, managing and appraising real estates on a contract or fee basis. The applicant received three foreign inward remittances amounting to ₹ 18,32,227/- from i) Mr.Sanjay Bhandari, USA ii) Chand R Bhutra, USA between 05.06.2006 and 07.08.2006 towards subscription to equity shares and reported the same to the Reserve Bank. Against the three remittances, the company allotted 6250 shares of ₹100/-each on 03.10.2006 amounting to ₹ 6,25,000/- and filed the relevant FC-GPR with Reserve Bank.

3. The company refunded the excess inward remittances remaining after allotment of shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	05.06.2006	6,00,812.00	26.10.2017
2	07.06.2006	1,44,505.00	26.10.2017
3	07.08.2006	4,61,293.00	26.10.2017

The company refunded the amount as indicated above with delay of nine years 10 months 27 days approximately beyond the stipulated time of 180 days with 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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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 08, 2017 during which Shri Sushil Kumar Sharma, Manager, Finance represented the applicant. The authorized representative of the applicant admitted the contravention as stated in para 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 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:

(a) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 12,06,610/- with the duration of contravention being nine years 10 months 27 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 ₹ 58,575/- (Rupees fifty eight thousand five hundred and seventy five only) will meet the ends of justice.



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7. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 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 ₹ 58,575/- (Rupees fifty eight thousand five hundred and seventy five 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 Eighth day of November, 2017.

Sd/-

B Sarangi
Deputy General Manager