



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 17, 2017  
**C.A.707/2017**

In the matter of

**M/s. GMT Ice and Cream Art (India) Pvt Ltd.,**  
Maison Colombani,  
62, Goubert Avenue,  
Pondicherry- 605001

**(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 August 16, 2017 (received at Reserve Bank on August 21, 2017 ) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the



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regulations issued 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 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 April 02, 2013 under the provisions of the Companies Act, 1956 (Registration No. U15132PY2013PTC002782) and is engaged in business of manufacture of ice-cream, kulfi etc. The applicant received foreign inward remittances from i) Mr. Adriano Natalini, Italy ii) Mr. Boccardi Moreno, Italy iii) Mr. Mantelli Giorgio, Italy iv) Mr. Marchettoni Marco, Italy v) Mr. Gualtierotti Sandro, Italy vi) Mr. Tonarelli Loris, Italy 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	99,300.00	14.08.2013	04.12.2014
2	17,68,213.00	21.10.2013	28.10.2013
3	17,68,213.00	21.10.2013	11.11.2013
4	7,00,618.00	06.11.2013	25.11.2013
5	21,02,266.00	06.11.2013	25.11.2013
6	7,12,744.00	06.01.2014	21.01.2014
7	6,81,000.00	29.04.2015	02.05.2015
8	6,81,000.00	29.04.2015	02.05.2015
9	3,39,138.00	29.04.2015	03.09.2015
10	3,46,210.00	21.05.2015	25.05.2015
11	5,90,765.00	01.07.2015	17.07.2015
12	5,90,765.00	01.07.2015	21.07.2015
13	2,36,705.00	21.07.2015	24.08.2015
14	3,29,895.00	01.09.2015	22.09.2015



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15	7,22,300.00	10.12.2015	15.12.2015
16	7,17,200.00	11.12.2015	27.01.2016
17	7,16,200.00	14.01.2016	18.01.2016
18	5,92,800.00	20.05.2016	16.06.2016
19	7,33,300.00	30.05.2016	27.06.2016
20	10,65,750.00	24.06.2016	04.07.2016
21	3,67,500.00	24.06.2016	04.07.2016
22	2,15,520.00	28.11.2016	22.12.2016
23	2,15,520.00	28.11.2016	14.12.2016
24	2,14,380.00	29.11.2016	14.12.2016
25	2,14,380.00	29.11.2016	22.12.2016
26	2,08,770.00	23.12.2016	09.01.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from four days to one year two months 20 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. Nos.1, 9,13 and 16. 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	9930	10	99,300	11.10.2013	04.12.2014
2	705203	10	70,52,030	24.03.2014	13.11.2014
3	204734	10	20,47,340	28.09.2015	22.10.2015
4	118152	10	11,81,520	27.11.2015	28.12.2015
5	32989	10	3,29,890	25.02.2016	29.04.2016
6	215570	10	21,55,700	31.03.2016	25.04.2016
7	299605	10	29,96,050	19.07.2016	19.08.2016
8	106857	10	10,68,570	25.01.2017	15.02.2017

The applicant filed the form FC-GPR as indicated above with delay ranging from one day to one year 23 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos.1,2,4,5 and 7. Whereas in terms of paragraph 9 (1) B of



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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 shares on 19.07.2016 against a remittance received as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	21.07.2015	2,36,700.00	19.07.2016

The company allotted shares with delay of five months 28 days approximately beyond the prescribed period 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated November 14, 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 17, 2017 during which Smt S Saimathy, Company Secretary in whole time practice represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 to 4 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.



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6. 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 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 ₹ 13,92,343/- with duration of contravention ranging from four days to one year two months 20 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 ₹ 1,16,58,790/- with the duration of contravention ranging from one day to one year 23 days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 2,36,700/- with the duration of contravention being five months 28 days approximately.

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 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 ₹ 58,160/- (Rupees fifty eight thousand one hundred and sixty 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,



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by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 58,160/- (Rupees fifty eight thousand one hundred and sixty 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 Seventeenth day of November, 2017.

**Sd/-**

**R Kesavan**  
**Chief General Manager**