



In the

Reserve Bank of India
10/3/8, Nrupathunga Road,
Bengaluru-560001

Present

Shri. Eugene E Karthak
Regional Director

Date: November 09, 2017
C.A. BGL 242/2017

In the matter of

M/s. Kadavanthara Builders Private Limited
No.45, 2nd Floor, 2nd Main, 41st Cross
Jayanagar 8th Block
Bengaluru 560 070
(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999, and the Regulations/Rules/Notifications/Orders framed there under, I pass the following

ORDER

The applicant has filed a compounding application dated June 12, 2017, received at the Office of Reserve Bank of India, Bengaluru on June 28, 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 receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of Form FC-GPRs 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 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 03, 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: M/s. Kadavanthara Builders Private Limited, was incorporated on March 02, 2007, under the Companies Act, 1956, in the state of Tamil Nadu. Subsequently the company shifted their registered office to the state of Karnataka with effect from August 05, 2016. The Company is mainly engaged in the business of construction and development of land. The applicant had received funds towards share application money from foreign investor, M/s Elbit Plaza India Real Estate Holdings Limited, Cyprus (Formerly known as Elbit India Real Estate Holdings Limited), as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	10-12-2007	139,76,59,574.00	02-01-2008
2	20-05-2008	5,11,67,702.00	23-07-2008
3	23-06-2008	19,31,17,200.00	23-07-2008
4	12-03-2009	16,49,26,453.80	30-03-2009
5	26-06-2009	86,48,698.63	07-07-2009
6	01-10-2009	20,17,82,000.00	08-10-2009
7	08-12-2009	21,29,70,000.00	14-12-2009
8	25-03-2010	6,76,81,600.00	20-04-2010
9	20-04-2010	7,24,39,382.40	06-05-2010
10	04-05-2010	13,76,64,000.00	21-05-2010
11	13-05-2010	8,60,40,500.00	04-06-2010
12	10-06-2010	95,47,200.00	29-06-2010
13	11-06-2010	7,00,46,600.05	29-06-2010
14	01-07-2010	35,22,68,512.20	13-07-2010
15	09-07-2010	1,40,09,330.00	21-07-2010
16	27-11-2013	1,49,70,700.00	02-12-2013
17	04-09-2015	5,00,00,000.00	24-11-2015
	Total	310,49,39,453.08	



The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from one month and four days to one month and twenty days approximately, beyond the stipulated time of 30 days, in respect of remittances as indicated at serial numbers 2 and 17 in the Table-1 above. 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 with RBI/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD Bank
1	10-12-2007	139,76,50,000.00	02-01-2008
2	11-07-2008	24,42,90,000.00	10-09-2008
3	04-09-2009	16,49,26,450.00	25-09-2009
4	02-11-2009	21,04,30,690.00	16-11-2009
5	17-02-2010	21,29,70,000.00	08-03-2010
6	13-04-2010	6,76,81,600.00	06-05-2010
7	13-10-2010	74,20,15,520.00	09-11-2010
8	26-02-2016	5,00,00,000.00	09-03-2016
	Total	308,99,64,260.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay of one month approximately, beyond the prescribed period of 30 days, in respect of allotment indicated at serial number 2 in the Table-2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.1275/22.10.407/2017-18 dated November 07, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representative Shri Hemanth Kothari, Group Company Secretary, appeared for the personal hearing on November 09, 2017. The representative of the applicant admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention but was mainly due to inadvertence, and the same will not be repeated. In view of the above, he requested to take a lenient view 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.

5. I have given my careful consideration to the documents on record and submission made by the applicant 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 I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards subscription to equity, as detailed in paragraph 2 above. The contravention relates to an amount of **Rs. 10,11,67,702.00**, and the period of delay ranges from one month and four days to one month and twenty days, approximately; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank, after



issue of shares, to persons resident outside India. The contravention relates to an amount of **Rs. 24,42,90,000.00**, and the period of delay is one month 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 **Rs. 45,000.00 (Rs. Forty Five Thousand only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I 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 **Rs. 45,000.00 (Rs. Forty Five Thousand only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru, 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, the Ninth day of November, 2017.

Sd/-

(Eugene E Karthak)
Regional Director