



In the  
Reserve Bank of India  
Foreign Exchange Department  
Central Vista, Sector 17, P.B.No.2  
Chandigarh-160017

Present

**Dr. Devi Prasad Panda**  
**General Manager**

Date: July 17, 2019  
CA No. CHA 49 /2019

In the matter of

**Mobihive Technologies Private Limited**  
**CIN- U72300CH2014PTC035129**  
H. No. 1319, Sector 18-C  
Chandigarh  
(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**

The applicant has filed a compounding application dated June 29, 2019 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity shares, (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, (iii) delay in filing of FLA returns; in terms of Paragraph 9(1) (A) and Para 9(1) (B) and Paragraph 9(2) respectively, of Schedule I to the 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) and (iv) delay in filing of FLA returns in terms of regulation 13.1(3) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).



2. The relevant facts of the case are as follows:

The applicant company was incorporated on July 11, 2014 under the Companies Act 2013. The applicant is engaged in activities of data processing, hosting and related activities.

3. The applicant received foreign inward remittance towards investment in equity shares from non-resident and reported the same to RBI with delay as per details given below:

<u>Sr No.</u>	<u>Date of receipt</u>	<u>Amount of foreign inward remittance in `</u>	<u>Date of reporting to RBI</u>	<u>Delay beyond prescribed time of 30 days</u>
1.	13.01.2016	43,04,262.50	20.05.2016	98 Days

The above remittance was not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittance to Reserve Bank of India with delay of **98 days**, in contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares 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.

4. Further, the applicant company issued shares to the non-resident investor but filed the Form FC-GPR with delay as indicated below.

<u>Sr. No</u>	<u>Date of issue of shares</u>	<u>Amount of shares in `</u>	<u>Date of submission of FC-GPR to RBI</u>	<u>Delay beyond prescribed time of 30 days</u>
1.	06.11.2015	6,55,527.50	18.11.2016	348 Days
2.	06.11.2015	3,20,366.20	01.11.2016	331 Days
3.	12.03.2016	43,04,262.50	01.08.2016	112 Days

The applicant reported the allotment of shares to the Reserve Bank with delay ranging from **112 days to 348 days**. The delay in reporting to the Reserve Bank in Form FC-GPR, beyond the prescribed period of 30 days in respect of allotment of the above shares, is in contravention of the provisions stipulated in the Paragraph 9(1) (B) of Schedule I to FEMA Notification No.20/2000-RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to 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 person resident outside India.



5. The company has delayed in filing FLA Return (Foreign Liabilities and Assets) for the financial years 2015-16 and 2016-17 as shown below:

Sr. No.	Particulars	Financial Year	Due date of filing	Date of actual filing
1	FLA Return	2015-16	15-07-2016	17.06.2019
2	FLA Return	2016-17	15-07-2017	17.06.2019

The applicant has filed FLA return for the financial years 2015-16 and 2016-17 with delay, whereas, in terms of Para 9(2) of FEMA 20/2000-RB as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

6. The company has delayed in filing FLA Return (Foreign liabilities and Assets) for the financial year 2017-18 as shown below:

Sr. No.	Particulars	Financial Year	Due date of filing	Date of actual filing
1	FLA Return	2017-18	15.07.2018	17.06.2019

The applicant has filed FLA return for FY 2017-18 with delay. Whereas, in terms of Regulation 13.1(3) of Notification No. FEMA 20R/2017-RB dated November 07, 2017 as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

7. The applicant was given an opportunity for personal hearing vide our letter No.FE.CG/FID/39/03.01.461/2018-19 dated July 04, 2019 for further submission in person and/or producing documents, if any, in support of the application. Shri Ravneet Sachdeva, Consultant of the company, appeared for personal hearing on July 17, 2019. During the personal hearing, the representative admitted the contravention committed by the applicant for which it has sought for compounding. The representative submitted that the contraventions were due to lack of awareness of the procedural requirements and were not intentional and requested for taking a lenient view in the matter. The application is, therefore, being considered on the basis of the averments made in the application, documents produced, and submissions made in the context by the applicant during personal hearing and thereafter.



8. It has been declared in the compounding application dated June 29, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking furnished with the compounding application that the applicant was not under any enquiry/investigation /adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

9. I have given my careful consideration to the documents on record and submissions made by the applicant. 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 dated May 3, 2000** due to delay in reporting of receipt of foreign inward remittance towards subscription of shares as detailed in paragraph 3 above. The contravention relates to an amount of ` **43,04,262.50/- with a delay of 98 days.**
- b. **Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The contravention relates to an amount of ` **52,80,156.20/- with the delay ranging from 112 days to 348 days.**
- c. **Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in Filing of **FLA return for the financial years 2015-16 and 2016-17** as detailed in paragraph 5 above.
- d. **Regulation 13.1(3) of Notification No. FEMA 20(R)/ 2017- RB dated November 07, 2017** due to delay in Filing of **FLA return for the financial year 2017-18** as detailed in paragraph 6 above.

10. 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 contravention is to be compounded and I consider that amount of penalty of ` **56,578.00 (Rs Fifty six thousand five hundred seventy eight only)** will meet the ends of justice.

11. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of Paragraph 9(1) (A) and Paragraph 9(1) (B) and Paragraph 9(2) 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 Regulation 13.1(3) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 on the facts discussed above, on payment of an amount of ` **56.578.00 (Rs. Fifty six thousand five hundred seventy eight only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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 17<sup>th</sup> day of July 2019.

Sd/-  
Dr. Devi Prasad Panda  
General Manager



FED, CEFA  
Compounding of Contravention under FEMA, 1999  
Mobihive Technologies Private Limited [CA No. CHA 49 /2019]