



In the
Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present
Shri Sunil Pethkar
Assistant General Manager

September 25, 2019

CA No. MUM 925/2019

In the matter of
M/s Austrax Technologies India Pvt Ltd
BL-6, FL-604, R-Euphoria,
SN-18/P, 19/P, Kondhwa, BK.O,
Pune 411 048

(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 thereunder, I pass the following

Order

- 1** The applicant has filed the compounding application dated July 04, 2019, received at the Reserve Bank on July 09, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention/s sought to be compounded are in respect of the following Regulations/ paras under Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2017, notified vide Notification No FEMA 20R/2017 RB dated November 07, 2017, as amended from time to time (hereinafter referred to as FEMA 20R):
 - I** Para 2(2) of FEMA 20R: Neither the equity instruments were issued, nor the money refunded to the foreign investor within 60 days/ 75 days (as applicable) from the receipt of the inward remittance



2 Brief details of the applicant company are as follows:

Date of Incorporation	December 06, 2017
Its main activities are:	Providing software support and maintenance to the clients

3 The applicant received foreign inward remittances from non-resident investors towards equity shares / compulsorily convertible preference shares/ compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

<u>Delay in reporting Foreign Direct Investment &/or delay in allotting the shares/ refunding the amount</u>						
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, and LSF stands for : Late Submission Fees</u>						
Sr. No/ LSF	Date of inward remittance (DD-MM-YY)	Amount received (in INR)	Date of reporting to RBI (DD-MM-YY)	Regulation 13.1 (1) delay	Date of allotment / refund (DD-MM-YY)	Para 2 delay
1	20-08-18	99,468.00	31-08-18	0	06-12-17	0Y 8M 14D
	TOTAL	99,468.00				

4 In respect of remittance amounting to Rs.99,468/- (Rupees Ninty Nine Thousand Four Hundred Sixty Eight Only), indicated in the table above the company allotted shares before receiving the foreign Investment and the delay in receiving foreign investment was 5M 1D. Whereas, the sequence of events as envisaged in Para 2 of FEMA 20R is that the Indian company has to first receive the inward remittance and then proceed with allotment of shares.

5 The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated September 13, 2019. The applicant applied for waiver of personal hearing vide e mail dated September 16, 2019. The applicant, in the compounding application, had admitted the contravention as stated above for which compounding has been sought. It had been submitted that the contravention was not wilful and was unintentional. 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.

6 I have given my careful consideration to the documents on record and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

1 Para 2(2) of FEMA 20R, since the shares were neither issued nor the amount was refunded to the person resident outside India within the prescribed time from the date of receipt of the inward remittance. The contravention relates to total amount of Rs.99,468 (Rupees Ninety Nine Thousand Four Hundred Sixty Eight and Zero Paise Only) with a delay of 0Y 8M 14D approximately.



- 7 It has been declared in the compounding application dated July 04, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to 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/him/her 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.
- 8 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.7,004 (Rupees Seven Thousand Four and Zero Paise Only) will meet the ends of justice.
- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 2(2) of FEMA 20R, 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. 7,004 (Rupees Seven Thousand Four and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai 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.
- 10 The above order is passed only in respect of contraventions of Para 2(2) of FEMA 20R and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.
- 11 The application is disposed of accordingly.
dated: September 25, 2019

Compounding Authority

sd/-

(Sunil Pethkar)
Assistant General Manager