



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
Dinesh Bahadur Singh
Deputy General Manager

March 8, 2019
CEFA.CO.ID.11542 / C.A. No. AHM - 122 / 2018-19
Matter
Inceptor Technologies Pvt. Ltd.
(CIN: U72300GJ2015PTC084326)

Shop No. 340, Bhagwati Trading, New Cloth Market, Ahmedabad - 380002

गुजरात / Gujarat

(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:



Order

The applicant has filed compounding application dated November 20, 2018 (received at Reserve Bank of India on December 10, 2018) 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (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; in terms of paragraphs 9 (1) (A) and 9 (1) (B) respectively, of Schedule 1 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 as then applicable 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 August 27, 2015 under the provisions of the Companies Act, 2013 (CIN: U72300GJ2015PTC084326). The company is engaged in developing a new affordable technology in Braille such that the blind people can comprehend communications received through digital medium and create a social impact for the benefit of blind. The applicant company has received one inflow amounting to **₹10,01,524/-** from foreign investor Sajiv Chandra, Amsterdam, Netherlands under automatic route. The company has issued the shares for the entire amount of **₹10,01,524/-**.



3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table - A)

Sl. No.	Amount of foreign inward remittance (₹)	Date of receipt	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	10,01,524	22-02-2016	23-11-2016	245 days

* The date for calculation of delay under 9(1) (A) taken as date of inflow reporting by Company to AD.

4. As indicated in the Table A above, the applicant reported the receipt of one inward remittance amounting to ₹10,01,524/- to the Ahmedabad Regional Office of the Reserve Bank of India with a delay of 245 days beyond the prescribed period of 30 days. Whereas, in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, 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. Thus, the company stands to contravene the provisions stipulated in paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. Para 9 (1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000:

(Table - B)

Sl. No.	No. of shares issued	Amount of shares issued (₹)	Date of issue of shares	Date of submission of FC-GPR to RBI *	Days delay excluding prescribed time of 30 days
1	295	10,01,524	30-03-2016	12-09-2018	866 days

* For calculation of days of delay under 9(1) (B) date of reporting to AD bank is taken as reporting to RBI.



6. As indicated in the Table B above, the applicant has filed one form FC-GPR amounting to ₹10,01,524/- with a delay of 866 days beyond the prescribed period of 30 days. Whereas, in terms of paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to the 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 foreign investor. Thus, the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1248/06.04.15 (A) CEFA /2018-19 dated February 25, 2019 for further submission in person and/or producing documents, if any, in support of the application. Applicant has vide their letter dated February 28, 2019 requested to dispose of their application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. Applicant has admitted in their application to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the company and they deeply regret the delay caused and requested to take a lenient view. They also stated that they are willing to accept any direction/ order of the Compounding Authority in connection with their compounding application.

8. 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.

9. It has been declared in the compounding application dated November 20, 2018 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 declaration 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/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.

10. I have given my careful consideration to the documents on record and submission 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 1 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 4 above. The amount of contravention involved is ₹10,01,524/- and the delay is 245 days.

B) Paragraph 9 (1) (B) of Schedule 1 to FEMA Notification No. FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹10,01,524/- and the delay is 866 days.

11. 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 therefore, I consider that amount of penalty of ₹27,725/- (Rupees Twenty Seven Thousand Seven Hundred Twenty Five only) will meet the ends of justice.



12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9 (1) (A) and 9 (1) (B) to Notification No. FEMA 20/2000-RB dated May 3, 2000 by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹27,725/- (Rupees Twenty Seven Thousand Seven Hundred Twenty Five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad –380 014 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 8th day of March 2019.

Sd/-

(Dinesh Bahadur Singh)
Deputy General Manager