



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

Present  
Ashish Gogia  
Assistant General Manager

December 5, 2018  
CEFA.CO.ID.10800 / C.A. No. AHM - 112 / 2018-19  
Matter  
Arrow Designs India Pvt. Ltd.  
(CIN: U72900GJ2015PTC083222)

A-604, Shilp Aaron, Sindhu Bhavan Road, Bodakdev, Ahmedabad - 380054

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 there under, I pass the following order:



## Order

The applicant has filed compounding application dated August 30, 2018 (received at Reserve Bank of India on September 7, 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 in allotment of shares / refund of share application money beyond stipulated period of 180 days; in terms of paragraphs 9 (1) (A) and 8 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 3<sup>rd</sup> May 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 May 18, 2015 under the provisions of the Companies Act, 2013 (CIN: U72900GJ2015PTC083222). The company is engaged in other information service activities n.e.c, bearing NIC Code: 63999. The applicant company has received one inflow amounting to ₹1,00,335/- from foreign investor Arrow Consulting and Design LLC, USA under automatic route. Company could not issue shares and file report in Form FC-GPR due to administrative issues. Company decided to unwind the transaction by refunding the entire inflow amount back to the overseas investor. Applicant company refunded the entire amount of ₹1,00,335/- after the stipulated 180 days from the date of receipt of inflow with Reserve Bank's permission in contravention of provisions stipulated in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.



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

**(Table - A)**

<b>Sr. No.</b>	<b>Amount of foreign inward remittance (₹)</b>	<b>Date of receipt</b>	<b>Date of reporting to RBI*</b>	<b>Days delay excluding prescribed time of 30 days</b>
1	08-01-2016	1,00,335	31-10-2017	632

\* 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 foreign inward remittance, amounting to **₹1,00,335/-** to the Ahmedabad Regional Office of the Reserve Bank of India with a delay of 632 days approximately 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. Contravention under Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:**

**(Table - B)**

<b>Sr. No.</b>	<b>Date of receipt</b>	<b>Amount of Refund (₹)</b>	<b>Date of Refund</b>	<b>Days delay excluding prescribed time of 180 days</b>
1	08-01-2016	1,00,335	05-10-2018	821

6. It is observed that the Company has refunded the entire share application money of **₹1,00,335/-** with the approval of the Reserve Bank of India with a delay of approximately 821 days beyond the prescribed period of 180 days as stipulated in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.



Whereas, in terms of Para 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by A Person Resident outside India) (Third Amendment) Regulations, 2007 notified vide, Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Government of India. Further in terms of paragraph 5 of AP(Dir series) Circular No.20 dated December 14, 2007, in all cases where, as on November 28, 2007, 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through their AD Category-1 bank with a definite action plan whether for allotment of equity instruments or for refund of the advance, with full details, for specific approval. Thus, the company stands to contravene the provisions stipulated in Paragraph 8 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.804/06.04.15(A)/CEFA/2018-19 dated November 27, 2018 for further submission in person and /or producing documents, if any, in support of the application. Applicant vide their letter dated November 30, 2018 has requested to dispose of their application as per documents submitted and sought an exemption from personal hearing with Compounding Authority. Applicant has admitted 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 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 applicant has requested that a lenient view may be taken 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 thereafter.

9. It has been declared in the compounding application dated August 30, 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 remittances towards subscription of shares as detailed in paragraph 4 above. The amount of contravention involved is ₹1,00,335/- and the delay is 632 days approximately.

**B) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000:** Due to delay in refund of share application money beyond stipulated period of 180 days from date of receipt detailed in Paragraph 5 above. The amount involved is ₹1,00,335/- and the delay is 821 days approximately.



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 ₹52,352/- (Rupees Fifty two thousand three hundred fifty two only) will meet the ends of justice.

12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 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 ₹52,352/- (Rupees Fifty two thousand three hundred fifty two only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 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 5<sup>th</sup> day of December, 2018.

(Ashish Gogia)  
Assistant General Manager