



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
Md. Shakir Hasan
Assistant General Manager

Date: April 2, 2019
CA No. NDL 336/2018

In the matter of
E2E Networks Limited

Awfis, First Floor, A-24/9, Mohan Cooperative Industrial Estate, Mathura Road,
Saidabad, New Delhi-110044

(Applicant)

In exercise of the powers under Section 15(1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made thereunder, I pass the following Order.

ORDER

The applicant has filed the compounding application dated November 14, 2018 (received at Reserve Bank of India, New Delhi on November 28, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittance received for issue of shares, (ii) delay in filing form FC-GPR after issue of shares, and (iii) delay in issue of shares beyond 180 days, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.



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

(a) The applicant company was incorporated on August 20, 2009 and is engaged in the business of data processing, hosting and related activities.

(b) The applicant had reported the receipt of two foreign inward remittances from its foreign investor, Mr. Freeman Murray, U.S.A. with delays of 6 years, 6 months & 23 days and 7 years & 2 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of receipt	Amount (in INR)	Date of Reporting
1	10.02.2011	399520	14.03.2018
2	20.07.2011	300847	14.03.2018
	Total	7,00,367	

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to this Schedule along with documents prescribed therein.

(c) The applicant had reported the allotment of shares to its foreign investor, Mr. Freeman Murray, U.S.A. on two occasions with delays of 5 years & 27 days and 6 years, 11 months & 14 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

Sl. No.	Date of allotment	Amount (in INR)	Date of Reporting
1	14.03.2011	400420	27.03.2018
2	24.05.2013	300000	20.07.2018
	Total	7,00,420	

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the



Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures, a report in the form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) The applicant had issued 3,750 equity shares on May 24, 2013 for a consideration amount of ₹3,00,000/- received on July 20, 2011, with a delay of 1 year, 4 months and 8 days beyond the prescribed period of 180 days from the date of receipt of foreign inward remittances, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, a company in India issuing shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by inward remittance through normal banking channels, or by debit to NRE/ FCNR account of the person concerned maintained with an authorised dealer/ authorised bank, or by debit to a non-interest bearing Escrow account (in Indian Rupees) maintained in India with an AD bank in accordance with Foreign Exchange Management (Deposit) Regulations, 2000. Provided that if the shares or convertible debentures are not issued within 180 days from the date of receipt of the inward remittance or date of "debit to NRE/ FCNR(B)/ Escrow account" the amount of consideration so received shall be refunded to the person concerned by outward remittance through normal banking channels or by credit to his "debit to NRE/ FCNR(B)/ Escrow account", as the case may be. Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons permit an Indian company 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.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Tarun Dua, Director and Shri Alok Vasant, Consultant appeared for personal hearing on April 2, 2019 on behalf of the applicant. The representatives of the applicant



admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that the contraventions were without any *malafide* or wilful intention but were mainly due to lack of knowledge of reporting requirements under FEMA as also not having the benefit of appropriate professional guidance. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, on account of delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹7,00,367/- (Rupees Seven Lakh Three Hundred and Sixty Seven only) and the periods of delays are 6 years, 6 months & 23 days and 7 years & 2 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, on account of delay in filing form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹7,00,420/- (Rupees Seven Lakh Four Hundred and Twenty only) and the periods of delay are 5 years & 27 days and 6 years, 11 months & 14 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, due to delay in issue of shares beyond 180 days, as detailed in paragraph 2(d) above. The contravention relates to an amount of ₹3,00,000/- (Rupees Three Lakh only) and the period of delay is 1 year, 4 months and 8 days.

5. It has been declared in the compounding application dated November 14, 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 also been declared in the declaration dated December 31, 2018 furnished as part of 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. 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.

6. In terms of Section 13 of 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 **₹84,553/- (Rupees Eighty Four Thousand Five Hundred and Fifty Three only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹84,553/- (Rupees Eighty Four Thousand Five Hundred and Fifty Three only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 accordingly.

Dated this the 2nd day of April 2019.



Sd/-
(Md. Shakir Hasan)
Assistant General Manager