



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

P Ramesh
Assistant General Manager

Date: March 13, 2019
C.A. 873/2018

In the matter of

M/s. Ibiz Consultancy Services India Pvt Ltd.
Plot No. NP1 and 2, Industrial Estate
SIDCO Industrial Estate, Guindy
Chennai - 600 032

(Applicant)

In exercise of the powers 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 January 3, 2019 (received at Reserve Bank on January 10, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is taking on record the transfer of shares in the books of the company without certified FC-TRS in terms of Regulation 4 of Foreign Exchange Management (Transfer or Issue of Security



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by a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 as then applicable (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 December 17, 2008 under the provisions of the Companies Act, 1956 (Registration No. U72200TN2008PTC070201) and is engaged in business of computer consultancy and computer facilities management activities.

3. The company has taken the transfer of 40000 shares of ₹10/- each amounting to ₹4,00,000.00 on record on July 27, 2015 without certified FC-TRS. The FC-TRS was submitted for certification to the AD on August 14, 2015 as detailed below:

Seller (NRI)	No of Shares	Buyer (Non Resident)	Amount Involved (INR)	Date of taking on record transfer of shares in the books of the company	Date of submission of FCTRS for certification to AD
Ramasubramaniam Balasubramaniam	40000	M/s IBIZCS Group Pte. Ltd	4,00,000.00	27.07.2015	14.08.2015

The company has taken the transfer of shares on record 18 days prior to filing FCTRS with AD. Whereas in terms of Regulation 4 of Notification No. FEMA 20/ 2000-RB read with A.P. (DIR Series) Circular No. 63 dated April 22, 2009, Form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration. Further save as otherwise provided in the Act, Rules or Regulations made there under, an Indian entity shall not record in its books any transfer of security from or to such person provided that the Reserve Bank may on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary.

4. The applicant was advised about the contraventions vide memorandum dated March 22, 2018. The applicant has filed a compounding application dated January 3, 2019 wherein it has been declared in the compounding application that the particulars given by the applicant in the application are true and correct to the best of



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their knowledge and belief. It has been declared in the declaration dated January 3, 2019 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. 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 5, 2019 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on March 8, 2019 during which Shri Deepender Kumar, Practicing Chartered Accountant, Shri Nand Sardana, Group Chief Financial Officer and Shri Kalairajan Sornanathan, Director represented the applicant. The applicant, in the compounding application, had admitted the contravention as stated in para 3 above for which compounding has been sought. It had been submitted that the delay 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 submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

- (a) Regulation 4 of Notification No. FEMA 20/2000-RB read with A.P. (DIR Series) Circular No. 63 dated April 22, 2009 for taking on record transfer of shares without certified FC-TRS as detailed in paragraph 3 above. The contravention relates to an amount of ₹4,00,000.00 with the duration of contravention being 18 days approximately.



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7. 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 **₹10,080/-** (Rupees Ten thousand and eighty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 4 of Notification No. FEMA 20/2000-RB read with A.P. (DIR Series) Circular No. 63 dated April 22, 2009, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹ 10,080/-** (Rupees Ten thousand and eighty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 thirteenth day of March, 2019.

Sd/-

P Ramesh

Assistant General Manager