



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

Present
V. G. Sekar
Chief General Manager
Date: October 30, 2019
CA No. NDL 473/2019

In the matter of
Intellosol Softwares India Private Limited
Ground Floor, S-606-B, School Block, Shakarpur, Delhi- 110092
(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 June 10, 2019 (received at Reserve Bank of India, New Delhi on June 14, 2019) 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) issue of shares to the person resident outside India prior to receipt of the amount of consideration in terms of paragraphs 9(1)(A), 9(1)(B) 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 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, incorporated on November 20, 2015, is engaged in the business of providing software support and maintenance to the clients.

(b) The applicant had received foreign inward remittance from its foreign investor, M/s Threadsol Private Limited, Singapore, on three occasions and reported two of them with delay of 2 days and 15 days, as detailed hereunder, beyond the prescribed period in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

S. No.	Date of receipt	Amount (₹)	Date of reporting
1	18.04.2016	1,02,536.00	20.05.2016
2	14.12.2016	3,33,72,500.00	28.01.2017
	Total	3,34,75,036.00	

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants 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 shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with a copy/ies of documents prescribed therein.

(c) The applicant had issued shares to its foreign investor, M/s Threadsol Private Limited, Singapore, on three occasions and reported them with delay ranging from 11 days to 3 months and 4 days, as detailed hereunder, beyond the prescribed period in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

S. No.	Date of allotment	Amount (₹)	Date of reporting to RBI
1	20.11.2015*	99,990.00	22.08.2016
2	24.06.2016	1,32,10,000.00	23.08.2016
3	10.02.2017	3,33,72,000.00	23.03.2017
	Total	4,66,81,990.00	

* consideration for 9999 MoA shares allotted on November 20, 2015 was, however, received on April 18, 2016.

Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants 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 or warrants, a report in the Form FC-GPR as specified by the Reserve Bank from time to time together with the documents prescribed therein.

(d) The applicant had received the consideration amount of ₹99,990/- on April 18, 2016 against the MoA shares allotted on November 20, 2015 with a delay of 3 months, beyond the prescribed period in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, an Indian company accepting FDI has to receive the share application money from the non-resident investor prior to the allotment of shares, and the shares have to be issued/ amount to be refunded, in case shares have not been issued, within 180 days from the date of receipt of inward remittance.

(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 Sameer Gupta, Consultant, appeared for personal hearing on October 29, 2019 on behalf of the applicant. The representative of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, he submitted that contraventions were without any *malafide* or wilful intention but were mainly due to addressing the issues raised by the AD bank for delay in receipt of remittance from the subscriber to the MoA and other technical issues. He 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, as then applicable, on account of delay in reporting of foreign inward remittances received towards subscription of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹3,34,75,036/- (Rupees Three Crore Thirty Four Lakh Seventy Five



Thousand and Thirty Six only) and the delays are of 2 days and 15 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, 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 ₹4,66,81,990/- (Rupees Four Crore Sixty Six Lakh Eighty One Thousand Nine Hundred and Ninety only) and the period of delay ranges from 11 days to 3 months and 4 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of allotment of shares to the person resident outside India prior to receipt of the amount of consideration. The contravention relates to an amount of ₹99,990/- (Rupees Ninety Nine Thousand Nine Hundred and Ninety only) and the period of delay is 3 months.

5. It has been declared in the compounding application dated June 10, 2019, 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 June 10, 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, 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules, 2000. Accordingly, it stands to reason that payment of an amount of **₹34,910/- (Rupees Thirty Four Thousand Nine Hundred and Ten only)** will meet the ends of justice in the circumstances of this case.



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 **₹34,910/- (Rupees Thirty Four Thousand Nine Hundred and Ten 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 30th day of October 2019.

Sd/-
(V. G. Sekar)
Chief General Manager