



In the

**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Shri Jose J Kattoor**  
**Regional Director, Karnataka and**  
**Chief General Manager, Bengaluru**

Date: July 25, 2019  
**C.A. BGL 415/2018**

In the matter of

**M/s Komtech Plastic Technologies India Private Limited**  
No.81 & 82 (B1 & B2), 7<sup>th</sup> Main  
Peenya Industrial Area, III Phase, Peenya  
Bengaluru – 560058  
**(Applicant)**

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

### **ORDER**

The applicant has filed a compounding application dated April 11, 2019, received at this office of Reserve Bank of India, Bengaluru on April 11, 2019, and addendum to the application dated July 23, 2019, received on July 24, 2019, 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 in reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in refund of excess share application money and delay in allotment of shares, beyond 180 days from the date of receipt of inward remittance, and (iii) delay 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), 8 and 9(1)(B), respectively, of Schedule I 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 03, 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, M/s Komtech Plastic Technologies India Private Limited, was incorporated on April 18, 2006, under the Companies Act, 1956 as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka. The company is engaged in the business of manufacturing, selling, importing and exporting of all kinds of plastics, thermoplastics, and PVC products. The applicant had received funds towards share application money from the non-resident investors, namely, M/s Nadar International Corporation, Panama, and M/s Komtech INC, Canada, as shown below:

**Table – 1**

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	14-07-2006	9,24,667.00	28-09-2006
2	06-11-2006	4,39,02,880.00	08-12-2006
3	27-06-2008	12,84,086.00	05-08-2008
4	17-07-2008	26,22,743.00	05-08-2008
5	01-01-2009	12,11,250.00	23-01-2009
6	09-02-2009	12,12,625.00	07-03-2009
7	05-03-2009	12,86,234.00	19-03-2009
8	25-03-2009	20,35,817.00	15-04-2009
9	25-06-2009	7,88,313.00	23-07-2009
10	24-08-2009	7,28,418.00	23-09-2009
11	23-09-2009	7,17,454.00	28-10-2009
12	15-12-2009	4,65,256.00	08-01-2010
13	12-02-2010	6,92,008.00	12-03-2010
14	30-03-2010	8,10,225.00	15-04-2010
15	28-06-2010	4,63,354.00	28-07-2010
16	03-08-2010	5,99,495.00	28-09-2010
17	28-10-2010	11,51,915.00	25-01-2011
18	30-12-2010	13,42,875.00	25-01-2011



19	01-03-2011	4,48,675.00	25-03-2011
20	28-08-2013	1,18,33,500.00	02-09-2013
21	13-08-2014	9,11,550.00	26-08-2014
22	20-08-2014	15,02,813.00	26-08-2014
23	30-09-2014	75,03,000.00	16-10-2014
24	31-03-2015	18,71,550.00	07-03-2017
25	05-10-2016	68,17,276.00	03-07-2017
	<b>Total</b>	<b>9,31,27,979.00</b>	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from two days to one year ten months and five days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 1, 2, 3, 11, 16, 17, 24 and 25, in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures 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.

3. The company had allotted equity shares to the foreign investors, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, in the instances mentioned here below, the company had refunded the excess share application money or allotted shares, to the non-resident investor, beyond the stipulated period of 180 days from the date of receipt of inward remittances.

i) The company had received inward remittances of ₹12,84,086.00, and ₹26,22,743.00, amounting to ₹39,06,829.00, from the non-resident investor M/s Komtech INC, Canada, and allotted 390682 equity shares worth ₹39,06,820.00, to the non-resident investor, on June 09, 2009, beyond 180 days from the date of receipt of inward remittances, without prior approval from Reserve Bank of India. The amount of contravention is **₹39,06,820.00**, and the period of delay ranges from five months and sixteen days to four months and twenty seven days;



ii) The company had received inward remittances amounting to ₹19,67,489.00, in three tranches from the non-resident investor M/s Nadar International Corporation, Panama, during the period December 15, 2009 to March 30, 2010, and allotted 196749 equity shares worth ₹19,67,490.00, to the non-resident investor on March 30, 2011, with a delay beyond 180 days from the date of receipt of inward remittances, with prior approval of Reserve Bank of India. The company was given approval vide Reserve Bank's letter Ref No.FE.BG.FID.No.2581/21.07.233/2010-11, dated January 11, 2011. The amount of contravention is **₹19,67,490.00**, and the period of delay ranges from six months and four days to nine months and seventeen days; and

iii) The company had received an inward remittance of ₹13,42,875.00, towards share application money from the non-resident investor M/s Nadar International Corporation, Panama, on December 30, 2010. The company had refunded the entire share application money of ₹13,42,875.00, to the non-resident investor, on February 14, 2012, with a delay beyond the prescribed time limit of 180 days from the date of receipt of remittance, with the prior approval of Reserve Bank of India. The company was given approval vide Reserve Bank's letter Ref FE.BG.FID.No.245/21.07.233/2012-13, dated January 03, 2012. The amount of contravention is **₹13,42,875.00**, and the period of delay is seven months and seventeen days.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, dated May 3, 2000, and as amended from time to time, read with AP (Dir series) Circular No. 20, dated December 14, 2007, 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 allot shares or 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. In the above mentioned instances, the total amount of contravention is **₹72,17,185.00**, and the period of delay ranges from four months and twenty seven days to nine months and seventeen days.



4. The applicant company had allotted equity shares and filed form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	26-11-2007	4482754 Equity	448,27,540.00	24-12-2007
2	09-06-2009	965274 Equity	96,52,740.00	03-07-2009
3	22-12-2009	223418 Equity	22,34,180.00	22-01-2010
4	30-03-2011	196749 Equity	19,67,490.00	29-04-2011
5	22-12-2010	221476 Equity	22,14,760.00	05-03-2011
6	24-08-2011	44867 Equity	4,48,670.00	01-10-2011
7	24-02-2014	1183350 CCPs	118,33,500.00	15-04-2014
8	27-08-2014	241436 Equity	24,14,360.00	06-04-2015
9	11-10-2014	750300 Equity	75,03,000.00	06-04-2015
10	11-05-2015	187155 Equity	18,71,550.00	18-01-2017
11	29-11-2016	681727 Equity	68,17,270.00	02-05-2018
	<b>Total</b>	<b>7995156 Equity &amp; 1183350 CCPs</b>	<b>917,85,060.00</b>	

The applicant filed the form FC-GPR on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from one day to one year seven months and eight days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 3 and 5 to 11, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, 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 person/s resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 302/22.07.233/2019-20, dated July 24, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative Mr. B.



Gopalappa, Manager, Finance, who appeared for the personal hearing on July 25, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, the representative of the applicant requested Reserve Bank to take a lenient view 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 during personal hearing and thereafter.

6. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹5,72,69,323.00**, and the period of delay ranges from two days to one year ten months and five days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to delay in allotment of shares and delay in refund of share application money, beyond 180 days from the date of receipt of inward remittances, as detailed in paragraph 3 above. The total amount of contravention is **₹72,17,185.00**, and the period of delay ranges from four months and twenty seven days to nine months and seventeen days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPR to the Reserve Bank after issue of shares to person/s resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **₹3,53,37,290.00**, and the



period of delay ranges from one day to one year seven months and eight days.

7. It has been declared in the compounding application dated April 11, 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 been declared in the undertaking, 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, 1999. Accordingly, the above contraventions which are being compounded in this order is 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.

8. 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 **₹1,14,251.00, (Rupees One Lakh Fourteen Thousand Two Hundred and Fifty One only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹1,14,251.00, (Rupees One Lakh Fourteen Thousand Two Hundred and Fifty One only)**, which shall be deposited by the applicant with the



Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, and payable at Bengaluru, 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 this, the Twenty Fifth day of July 2019.

**Sd/-**

**(Jose J Kattoor)**  
**Regional Director, Karnataka and**  
**Chief General Manager, Bengaluru**