



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Manmohan**

**Deputy General Manager**

Date: August 09, 2019

C.A. 4907 / 2019

In the matter of

**Saksoft Limited**

**SP Infocity, Block-A, 2<sup>nd</sup> Floor,  
#40, Dr. MGR Salai, Kandanchavadi, Perungudi Chennai – 600 096**

**(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**

The applicant has filed a compounding application dated March 13, 2019 (received in the Reserve Bank on March 22, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded relate to delay in reporting of Employee Stock Options Plan (ESOPs) beyond thirty days from the date of issue of shares, in contravention of Regulation 8(2) of 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 3rd May 2000 (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 as Sak Infotech Limited under the Companies Act, 1956 on November 24, 1999 [CIN L72200TN1999PLC054429]. Its name was subsequently changed to Saksoft Limited on September 30, 2002. The applicant is engaged in business of computer programming, consultancy and related activities.

2.1 Pursuant to the approval of the Nomination and Remuneration Committee of the Board of Directors of Saksoft Limited (the company) on January 12<sup>th</sup>, 2016 and May 27<sup>th</sup>, 2016, Saksoft Employee Welfare Trust has transferred the following shares to Mr. Jonathan Eeley, the option grantee (employee of Acuma Solutions Limited, UK wholly owned subsidiary of Saksoft Limited) under ESOP 2006 scheme of the company as detailed below –

<b>Date of Transfer</b>	<b>No. of shares ESOP</b>	<b>Exercise Price</b>	<b>Market Price at the date of transfer</b>
February 12, 2016	12,500	Rs. 45.05	Rs. 430.35
May 31, 2016	10,000	Rs. 45.05	Rs. 211.15

Saksoft Employee Welfare Trust have received Rs. 16,88,516.25 on January 04, 2016 and Rs. 8,73,141.25 on January 20, 2016 from Mr. Jonathan Eeley towards the allotment of ESOP shares to him by the said Trust under the company's ESOP Scheme, 2006. The company has allotted / transferred 12,500 ESOP shares to Mr. Jonathan Eeley on February 12, 2016 and 10,000 ESOP shares on May 31, 2016. Total remittance received was Rs. 25,61,657.50, however shares are being allotted for Rs. 10,13,625.

2.2 The company had filed the Form ESOP for the allotments made with all supporting documents with the AD on August 23, 2016 together with the reasons for delay in submission of Form ESOP with RBI. RBI had acknowledged receipt of declaration in Form ESOP in respect of equity shares issued by the Trust vide letter No. Che. FED.FID/2455/25.19.557/2017-18 dated January 05, 2018 for the said filing of Form ESOP.

3. The applicant committed the following contraventions of FEMA provisions as laid down under Notification No. FEMA 20/2000-RB, as then applicable:-



In terms of Regulation 8(2) of Notification No. FEMA 20/2000-RB “*The issuing company shall furnish to the Reserve Bank , within thirty days from the date of issue of shares under the scheme, a report giving the following particulars/documents, - i) names of persons to whom shares are issued under the scheme and number of shares issued to each of them; ii) a certificate from the Company Secretary of the issuing company that the value of shares issued under the scheme does not exceed 5% of the paid up capital of the issuing company and that the shares are issued in compliance with the regulations issued by the SEBI in this behalf.*”

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FED.CO.CEFA.No./6404/15.20.67/2018-19 dated April 26, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on May 28, 2019, which was attended by Ms Meera Venkatramanan, Legal Counsel. Ms Meera submitted that delay in submission of the form ESOP was caused due to delay in conducting due diligence of the customer by the AD Bank and requested that a lenient view may be taken in the matter. 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 submitted along with the application.

5. I have given my careful consideration to the documents on record and thereafter. Accordingly, I hold that the applicant has contravened the Regulations 8(2) of FEMA 20/2000-RB as amended from time to time. The contravention relates to allotment of shares of amount **Rs. 10,13,625/-** and the period of contravention ranges from **March 12, 2016 to August 23, 2016 i.e. five months** approximately.

6. It has been declared in the compounding application dated March 13, 2019 that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. It has been declared in the undertaking submitted with the application by the applicant 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 him thereafter as required in terms of the said undertaking.



Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made/undertaking furnished 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/undertakings are subsequently discovered to be false and/or incorrect.

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 contravention is to be compounded and I consider that an amount of **Rs.11,042/- (Rupees eleven thousand and forty two only)** will meet the ends of justice in the circumstances of the case.

8. Accordingly, I compound the admitted contraventions namely, the contravention of Regulations 8(2) of Notification No. FEMA 20/2000-RB amended from time to time by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **Rs.11,042/- (Rupees eleven thousand and forty two only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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 09th day of August, 2019

**Sd/-**  
**Manmohan**  
**Deputy General Manager**