



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: February 28, 2020

C.A. 5016 / 2019

In the matter of

VVDN Technologies Private Limited

Industrial Plot No. 441, Sector 8, IMT Manesar, Gurugram (Haryana) - 122050

(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 September 18, 2019 (received in the Reserve Bank on September 25, 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 grant of Employee Stock Options Plan (ESOPs) beyond the stipulated time period, 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 May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) and Regulation 13(5) of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017 notified vide Notification No. FEMA 20(R)/2017-RB dated November 09, 2017 (hereinafter referred to as Notification No. FEMA 20R/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated as E-Con Infotech Private Limited on April 26, 2007 (CIN: U72200DL2007PTC162619) and its name was changed to VVDN Technologies Private Limited on August 28, 2008. It is involved in IT, ITES and IS related consultancy services.

2.1 The applicant had granted 637000 number of ESOP options at face value of Rs. 2/- per equity share by way of grant letter dated April 06, 2016 to its Non-Resident employees and Directors given below -

Name of the Employee	No. of Options Granted	Date of Grant of Options	Exercise Price per option (INR)	Value (INR) in case option is exercised
Ramesh Singh	543000	06-04-2016	2.00	1086000
Camillo Martino	94000	06-04-2016	2.00	188000
Total	637000			1274000

2.2 The applicant had granted stock options to person resident outside India but delayed reporting at the time of grant of options in Form ESOP. Due date for filling of Form ESOP was May 07, 2016 however, the applicant filed the Form ESOP through FIRMS portal only on June 21, 2019. Therefore, the applicant had contravened Regulation 8(2) (from May 07, 2016 to November 08, 2017) of Notification No. FEMA 20/2000-RB and Regulation 13(5) (from November 09, 2017 to June 21, 2019) of Notification No. FEMA 20R/2000-RB. Form ESOP filed by the applicant was taken on record on June 28, 2019.

3. The applicant committed the following contraventions of FEMA provisions, as then applicable:-



3.1 In terms of Regulation 8(2) of Notification No. FEMA 20/2000-RB *“(1) An Indian company may issue “employees’ stock option” and/or “sweat equity shares” to its employees/directors or employees/directors of its holding company or joint venture or wholly owned overseas subsidiary/subsidiaries who are resident outside India*

(2) The Reserve Bank may require the company issuing “employees’ stock option” and/or “sweat equity shares” to submit such reports and at such frequency as it may consider necessary.”

3.2 In terms of Regulation 13(5) of Notification No. FEMA 20R/2000-RB *“Form Employees’ Stock Option (ESOP): An Indian company issuing employees’ stock option to persons resident outside India who are its employees / directors or employees / directors of its holding company / joint venture / wholly owned overseas subsidiary / subsidiaries shall submit Form-ESOP to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company operates, within 30 days from the date of issue of employees’ stock option”.*

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. FED.CO.CEFA.No./3360/15.20.67/2019-20 dated December 31, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide email dated January 07, 2020 submitted that they did not wish to attend the personal hearing and that the case be disposed on the basis of the documents submitted. 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. It has been declared in the compounding application dated September 18, 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.

6. 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 and Regulation 13(5) of FEMA 20R/2000-RB as amended from time to time. The contravention relates to grant of ESOPs equivalent to an amount of **Rs.12,74,000/-**. The period of contravention ranges from **May 07, 2016 to June 21, 2019 i.e. three years and two months** approximately.

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.17,917/- (Rupees seventeen thousand nine hundred seventeen 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 and Regulation 13(5) of FEMA 20R/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.17,917/- (Rupees seventeen thousand nine hundred seventeen 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 28th day of February, 2020

Sd/-
Manmohan
Deputy General Manager