



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: April 26, 2019
C.A. BGL 353/2018

In the matter of

M/s 3Five8 Technologies Private Limited
No.518, V V Arcade, 1st Main Road, AECS Layout
B Block, Kundalahali, K R Puram
Bengaluru - 560037
(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 November 30, 2018, received at the office of Reserve Bank of India, Bengaluru, on December 14, 2018, 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, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A) 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 3Five8 Technologies Private Limited, was incorporated on July 01, 2009, under the



Companies Act, 1956, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka. The activity undertaken by the company is in the area of information technology and computer services. The applicant had received funds towards share application money from the foreign investors, namely, Mr. Bhupendra Natwerlal Shah, USA, Mr. Raghuveer Tarra, USA, Mr. Zaheer F Rattsonsey, UAE, Mr. Kiran Sampat, USA, and Mr. Jasmine Mohanlal Badlani, UAE, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	08-11-2013	60,02,558.00	30-01-2016
2	13-11-2013	60,02,558.00	18-07-2016
3	16-11-2013	49,93,617.00	30-01-2016
4	30-07-2015	8,00,000.00	30-01-2016
5	20-08-2015	12,93,000.00	30-01-2016
6	20-08-2015	50,05,000.00	29-08-2016
7	03-09-2015	20,02,000.00	18-07-2016
8	13-06-2016	3,77,650.00	14-09-2016
9	13-06-2016	3,77,650.00	13-09-2016
10	13-06-2016	3,77,650.00	15-09-2016
11	13-06-2016	3,77,650.00	12-09-2016
12	13-09-2017	119,91,734.00	04-01-2018
	Total	3,96,01,067.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one month and thirty days to two years seven months and five days, beyond the stipulated time of 30 days in respect of the remittances indicated at serial numbers 1 to 12, 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 shares and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	22-11-2013	940	60,02,558.00	30-09-2016
2	22-11-2013	940	60,02,558.00	30-09-2016
3	22-11-2013	782	49,93,617.40	05-10-2016
4	20-08-2015	115	20,93,000.00	04-10-2016
5	20-08-2015	275	50,05,000.00	06-10-2016
6	03-09-2015	110	20,02,000.00	03-10-2016
7	22-06-2016	83	15,10,600.00	04-08-2017
	Total	3245	2,76,09,333.40	

The applicant filed form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one year to two years nine months and thirteen days, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial numbers 1 to 7, 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 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4690/22.09.464/2018-19 dated April 22, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Ms. Sangeeta Banerjee, Director, and Mr. Ashwin Dwarakanath Bhat, Practising Company Secretary, who appeared for the personal hearing on April 25, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal



hearing, the representatives of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken 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.

5. 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 **₹3,96,01,067.00**, and the period of delay ranges from one month and thirty days to two years seven months and five days; and

(b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of **₹2,76,09,333.40**, and the period of delay ranges from one year to two years nine months and thirteen days.

6. It has been declared in the compounding application dated November 30, 2018, 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 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.

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 **₹1,67,925.00 (Rupees One Lakh Sixty Seven Thousand Nine Hundred and Twenty Five only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) 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 **₹ 1,67,925.00 (Rupees One Lakh Sixty Seven Thousand Nine Hundred and Twenty Five only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd 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 Sixth day of April 2019.

Sd/-

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