



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri P Kalyan Chakravarthy
Assistant General Manager

Date: June 19, 2019
C.A. HYD 423

In the matter of
M/s Covalense Technologies Private Limited
Unit A, 5th Floor, Kapil Towers, IT Park,
Financial District, Nanakramguda,
Gachibowli Hyderabad 500032

(Applicant)

In exercise of the powers conferred under sub-section (1) of Section 15 of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made thereunder, I pass the following

Order

The applicant has filed the compounding application dated March 27, 2019 received on April 8, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances in terms of Paragraph 9(1)(A) of Schedule 1 to Foreign Exchange Management Regulations, 2000 notified vide Notification No.



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FEMA.20/2000-RB dated May 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable (ii) delay in refund of share application money to foreign investors in terms of Paragraph 2(3) of Schedule 1 to FEMA 20(R) dated November 7, 2017 (hereinafter referred to as Notification No. FEMA 20R/2017-RB) and (iii) delay in filing of FLA returns in terms of Paragraph 9(2) of Schedule 1 to FEMA.20/2000-RB as then applicable and Regulation 13.1(3) of FEMA 20R/2017-RB as amended from time to time.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 17.03.2006(CIN: U72200TG2006PTC049522). The company is engaged in writing, modifying, testing of computer program to meet the needs of a particular client excluding web-page designing.
- b) The company was earlier compounded for contraventions of Paragraph 9(1)(A) and Paragraph 8 of Schedule I to FEMA 20/2000-RB dated May 3, 2000, for remittances received upto 09.08.2006, vide CA No. 785/2010 dated February 19, 2010. A penalty of ₹10000/- was levied which was paid by the company.
- c) The applicant had received foreign inward remittances (after 09.08.2006) from foreign investors as indicated below:

S.No	Name of remitter	Amount (INR)	Date of Receipt	Date of reporting
1	Srinivas Patri	2,69,235	09/03/2007	08/05/2009
2	Ajaya Kumar Sangabathula	65,03,280	04/05/2018	06/06/2018*
3	Apparao Kilaparathi	1,01,40,000	17/05/2018	06/06/2018
	Total	1,69,12,515		



***As the remittance was received after November 7, 2017, LSF of ₹ 271/- was paid by the company.**

The applicant reported receipt of remittances towards share subscription amounting to ₹1,69,12,515/- to the Regional Office of Reserve Bank of India out of which remittances amounting to ₹269235/- with delay of 2 years 1 month approximately as indicated above. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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.

d) The company has refunded the share application money to the foreign investor as shown below:

S.No	Name of investor	Amount of remittance received (INR)	Date of receipt of remittance	Amount for which shares allotted (INR)	Excess Share application money	Date of request for refund by the company
1	Apparao Kilaparthi	10140000	17/05/2018	9754920	385080	03/12/2018

The applicant approached RBI for approval to refund excess share application money of ₹385080/- beyond 75 days from the date of receipt with a delay of 4 months 3 days approximately and approval was granted vide letter No. HY.FE.FID/1255/14.06.147/2018-19 dated December 24, 2018. Whereas in terms of Paragraph 2(3) of Schedule 1 of FEMA 20(R)/2017-RB dated November 07, 2017, where such capital instruments are not issued within sixty days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR (B)



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accounts, as the case may be within fifteen days from the date of completion of sixty days.

e) The company has delayed in filing FLA Return (Foreign liabilities and Assets) for

SNo	Particulars	Financial year	Due date of filing	Date of actual filing
1	FLA Return	2012-13	15-07-2013	02.08.2013
2	FLA Return	2017-18	15-07-2018	17.09.2018

2 years as shown below:

The company had filed FLA returns for the years 2012-13 and 2017-18 with delays ranging from 18 days to 2 months 2 days approximately. Whereas, in terms of Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable and as amended and Regulation 13.1(3) of Schedule I to FEMA 20(R) dated November 7, 2017 , all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2889/14.66.003/2018-19 dated June 14, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The authorized representatives of the company, Shri M V Narendra Prasad, Senior Finance Manager and Ms C.Bhandhavi, Company Secretary, appeared for personal hearing on June 18, 2019. They admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that



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the delay was not wilful or with a malafide intention but was on account of administrative lapses. In view of the above, the applicant requested 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 the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of: -

(a) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to ₹ 2,69,235/- and the delay is 2 years 1 month approximately.

(b) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB for delay in refund of share application money ₹ 3,85,080/- and the period of contravention is 4 months 3 days approximately.

(c) Paragraph 9(2) of Schedule 1 to Notification No. 20/2000-RB and Regulation 13.1(3) of Schedule I to Notification No. FEMA 20R/2017-RB for delay in filing of FLA returns and the period of contravention ranges from 18 days to 2 months 2 days approximately.

5. It has been declared in the compounding application dated March 27, 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 declaration dated June 11, 2019 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



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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 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 **₹1,16,008/- (Rupees One Lakh Sixteen Thousand and Eight Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 9(2) of Schedule 1 to FEMA.20/2000-RB, Paragraph 2(3) and Regulation 13.1(3) of Schedule 1 to Notification no. FEMA 20(R)/2017-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹1,16,008/- (Rupees One Lakh Sixteen Thousand and Eight Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 19th day of June 2019

Sd/-



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(P Kalyan Chakravarthy)
Assistant General Manager