



In the
Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present
Shri Sunil Pethkar
Assistant General Manager

August 22, 2019

CA No. MUM 891/2019

In the matter of
M/s Miraclon India Private Limited
1st Floor, Dani Corporate Park, 158 Dani Compound,
Vidyanagari Marg, Kalina, Santacruz East
Mumbai 400098

(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 thereunder, I pass the following

Order

- 1 The applicant has filed the compounding application dated April 24, 2019, received at the Reserve Bank on April 25, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention/s sought to be compounded are in respect of the following Regulations/ paras under Schedule 1 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 3, 2000 as amended from time to time (hereinafter referred to as FEMA 20) and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2017, notified vide Notification No FEMA 20R/2017 RB dated November 07, 2017, as amended from time to time (hereinafter referred to as FEMA 20R):



- I Para 9 (1) (A) of FEMA 20 read with Regulation 13.1 (1) of FEMA 20R: Delay in reporting receipt of foreign inward remittance towards subscription to equity
- II Para 9 (1) (B) of FEMA 20: Delay in filing Form FC GPR to Reserve Bank after issue of shares to person resident outside India
- 2 Brief details of the applicant company are as follows:

Date of Incorporation	October 23, 2015
Its main activities are:	Packaging activities

- 3 The applicant received foreign inward remittances from non-resident investors towards equity shares / compulsorily convertible preference shares/ compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

<u>Delay in reporting Foreign Direct Investment &/or delay in allotting the shares/ refunding the amount</u>						
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, and LSF stands for : Late Submission Fees</u>						
S No/ LSF	Date of inward remittance (DD-MM-YY)	Amount received (in INR)	Date of reporting to RBI (DD-MM-YY)	Para 9 (1) A/ Regulation 13.1 (1) delay	Date of allotment / refund (DD-MM-YY)	Para 8 delay
1	12-08-16	64,999.00	31-08-18	1Y 11M 19D	30-08-16	0
2	02-11-16	32,515.50	31-08-18	1Y 8M 29D	15-11-16	0
3	14-06-18	33,040.00	31-08-18	0Y 1M 17D	14-06-18	0
4	10-12-18	28,360.00	NA	0	10-12-18	0
5	17-10-18	500.00	NA	0	12-12-18	0
6	04-02-19	2,485.00	NA	0	15-11-16	0
7	02-04-19	17,40,47,500.00	NA	0	05-04-19	0
TOTAL		17,42,09,400.00				

In terms of Para 9 (1) (A) of FEMA 20 read with Regulation 13.1 (1) of FEMA 20R, 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. However the applicant company reported receipt of remittances to the Reserve Bank of India on dates indicated above in 3 out of 7 total remittances with a delay ranging from 0Y 1M 17D to 1Y 11M 19D.

- 4 The company allotted equity shares/compulsorily convertible preference shares/compulsorily convertible debentures and filed FC-GPRs as indicated below:

**Delay in filing Form FCGPR**

(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees, IP stands for Issue Price and FV stands for Face Value

Sno/ LSF	Date of allotment (DD-MM-YY)	Number of shares	IP (FV+ premium) (in INR)	Amount (IP*no of shares) (in INR)	Date of reporting (DD-MM-YY)	Para 9 (1) (B) delay
1	30-08-16	6499	10.00	64,990.00	16-01-19	2Y 3M 16D
2	15-11-16	3500	10.00	35,000.00	13-02-19	2Y 1M 29D
LSF Paid	14-06-18	3304	10.00	33,040.00	21-02-19	LSF Paid
LSF Paid	10-12-18	2836	10.00	28,360.00	01-03-19	LSF Paid
LSF Paid	12-12-18	50	10.00	500.00	18-03-19	LSF Paid
6	05-04-19	17404750	10.00	17,40,47,500.00	04-05-19	0
TOTAL				17,42,09,390.00		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 2Y 1M 29D to 2Y 3M 16D. Whereas, in terms of Para 9(1) (B) of FEMA 20, an Indian company issuing shares in accordance with these Regulations has to submit to RBI a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to Non Resident. In case of the allotment/s amounting to Rs. 61,900 (Rupees Sixty One Thousand Nine Hundred and Zero Paise Only) indicated in the above table as "LSF Paid", they were also reported with a delay. In terms of Regulation 13.2 of FEMA 20R/2017-RB, the person/ entity responsible for filing the reports stipulated in Regulation 13.1 shall be liable for payment of late submission fee, as may be decided by the Reserve Bank, in consultation with the Central Government, for any delays in reporting. Since the applicant has already deposited the LSF amount, this delay has not been taken into consideration for computing the amount for compounding the contraventions.

- 5** The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated August 14, 2019. The applicant appeared for personal hearing on August 20, 2019, during which Ms Alpana S. Pobi, Consultant and Mr S.N. Viswanathan, Consultant represented the applicant in the cabin of Shri Sunil Pethkar, Assistant General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing 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.
- 6** I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:



- I Para 9 (1) (A) of FEMA 20 read with Regulation 13.1 (1) of FEMA 20R, due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed above. The contravention relates to total amount of Rs.1,30,555 (Rupees One Lakh Thirty Thousand Five Hundred Fifty Five and Zero Paise Only) and with a delay ranging from minimum 0Y 1M 17D to maximum 1Y 11M 19D approximately.
- II Para 9 (1) (B) of FEMA 20, due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to total amount of Rs.99,990 (Rupees Ninety Nine Thousand Nine Hundred Ninety and Zero Paise Only) and with a delay ranging from minimum 2Y 1M 29D to maximum 2Y 3M 16D approximately.
- 7 It has been declared in the compounding application dated April 24, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to 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/him/her 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.
- 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 Rs.20,932 (Rupees Twenty Thousand Nine Hundred Thirty Two and Zero Paise Only) will meet the ends of justice.
- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (A) of FEMA 20 read with Regulation 13.1 (1) of FEMA 20R and Para 9 (1) (B) of FEMA 20, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 20,932 (Rupees Twenty Thousand Nine Hundred Thirty Two and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.



- 10 The above order is passed only in respect of contraventions of Para 9 (1) (A) of FEMA 20 read with Regulation 13.1 (1) of FEMA 20R and Para 9 (1) (B) of FEMA 20 and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

- 11 The application is disposed of accordingly.
dated: August 22, 2019

Compounding Authority

(Sunil Pethkar)
Assistant General Manager