



In the

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

Present

Shri. P. Kalyan Chakravarthy
Assistant General Manager

Date: December 31, 2019
C.A. HYD 466

In the matter of

M/s. WebToGo Mobiles Internet Private Limited
18-B/1, SDF-1 Building, Visakhapatnam Special Economic Zone
Duvvada, Visakhapatnam - 530 049

(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 there under, I pass the following

Order

The applicant has submitted the compounding application dated November 04, 2019 received by us on November 08, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) Delay in reporting of receipt of foreign inward remittances towards subscription of equity, (ii) Delay in refund of un-allotted share application money to a person resident outside India, (iii) Taking on record transfer of shares by Investee Company



without certified form FC-TRS and (iv) Delay in filing of FLA returns, in terms of Paragraph 9(1)(A), Paragraph 8, Regulation 4, Paragraph 9(2) of 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 3rd May 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB) and Regulation 13.1(3) of Notification No. FEMA 20(R)/2017-RB as then applicable respectively.

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 November 23, 2006 (CIN: U72200AP2006PTC051784). The company is engaged in the business of “Publishing of operating business and other applications”.
- b) The applicant had received foreign inward remittance from a single foreign investor as indicated below:

Name of Remitter	Amount (INR)	Date of Receipt	Date of Reporting
WebToGo Mobiles Internet GmbH	1,00,000	11.01.2007	06.07.2007

The applicant reported receipt of remittance towards share subscription amounting to ₹ 1,00,000/- to the Regional Office of Reserve Bank of India, with a delay of 4 months 26 days approximately beyond the prescribed limit. 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.



c) The applicant has delayed in refund of the un-allotted share application money to the non-resident investor beyond 180 days from the date of receipt of remittance as indicated below.

Sl No	Name of Remitter	Total Amount (INR)	Date of Receipt	Un-allotted share application (INR)	Date of seeking approval for refund
1	WebToGo Mobiles Internet GmbH	1,00,000	11.01.2007	1,00,000	19.09.2017
	Total			1,00,000	

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Government of India with effect from November 29, 2007. Here, the un-allotted share application money is ₹ 1,00,000 and the period of contravention is 10 years 2 months 8 days approximately.

d) The following transfer of shares from resident shareholders to the foreign holding company (M/s WebToGo Mobiles Internet GmbH) and the foreign directors of the captioned company were taken on record without obtaining certified form FC-TRS. Details of the said transaction are tabulated as below:



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Sl No	Name of the Transferor	Name of the Transferee	Date of transfer of shares	Number of shares	Amount (INR)	Date of taking on record in company books	Date of certification by AD
1	Bollapragada Ravikanth	WebToGo Mobiles Internet GmbH	28.06.2007	5,000	50,000	28.06.2007	06.06.2019
2	Bollapragada Venkata Ramana Murthy	WebToGo Mobiles Internet GmbH	28.06.2007	4,800	48,000	28.06.2007	07.10.2019
3	Bollapragada Venkata Ramana Murthy	Daniel Beringer	28.06.2007	100	1,000	28.06.2007	22.10.2019
4	Bollapragada Venkata Ramana Murthy	Peter Duesing	28.06.2007	100	1,000	28.06.2007	15.10.2019
			Total	10,000	1,00,000		

Whereas in terms of Regulation 4 of Notification No. FEMA 20/2000-RB, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person, provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary. Here the amount of contravention is ₹ 1,00,000/- and the period of contravention ranges from 11 years 11 months 9 days to 12 years 3 months 24 days approximately.



e) The applicant has delayed in filing FLA Return (Foreign Liabilities and Assets) as indicated below. Here the period of contravention ranges from 2 months 14 days to 7 years 2 months 9 days approximately.

S No	Financial Year	Due date of filing	Actual date of filing
1	2011-12	15.07.2012	24.09.2019
2	2012-13	15.07.2013	25.09.2019
3	2013-14	15.07.2014	26.09.2019
4	2014-15	15.07.2015	27.09.2019
5	2015-16	15.07.2016	30.09.2019
6	2016-17	15.07.2017	03.10.2019
7	2017-18	15.07.2018	05.10.2019
8	2018-19	31.07.2019*	14.10.2019

* Due date for the financial year 2018-19 had been extended from July 15, 2019 to July 31, 2019.

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 Regulation 13.1(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 as amended from time to time, "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/ 1446 /14.66.003/2019-20 dated December 26, 2019 for



further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide e-mail dated December 26, 2019 stated that they are foregoing appearing for the personal hearing and requested that the compounding application may be disposed of on the basis of merits in terms of the facts/submission made therein along with the compounding application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

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 ₹ 1,00,000/- and the period of contravention is 4 months 26 days approximately.

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007 for delay in refund of unallotted share application money of ₹ 1,00,000/- to the foreign investor and the period of contravention is 10 years 2 months 8 days approximately.

(c) Regulation 4 of Notification No. FEMA 20/2000-RB for taking transfer of shares on record without certified form FC-TRS from Authorized Dealer Bank and the contravention relates to an amount of ₹ 1,00,000/- and the delay ranges from 11 years 11 months 9 days to 12 years 3 months 24 days approximately.

(d) Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB & Regulation 13.1(3) of Notification No. FEMA 20(R)/2017-RB for delay in filing of Annual Return on Foreign Liabilities and Assets to Reserve Bank of India for eight financial years viz, 2011-12 to 2018-19 and the delay ranges from 2 months 14 days to 7 years 2 months 9 days approximately.



5. It has been declared in the compounding application dated November 04, 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 November 04, 2019 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 under 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.

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 **₹ 1,72,107/- (Rupees One Lakh Seventy Two Thousand One Hundred Seven Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 8, Regulation 4, Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and Regulation 13.1(3) of 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 **₹ 1,72,107/- (Rupees One Lakh Seventy Two Thousand One Hundred Seven**



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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 31st day of December 2019.

Sd/-
(P Kalyan Chakravarthy)
Assistant General Manager