



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: June 17, 2019

C.A. 4896 / 2019

In the matter of

Cellcomm Solutions Limited

No. 52/44, 8th Main, 2nd Cross, Mahalaxmi Layout, Bengaluru - 560096

(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 February 12, 2019 (received in the Reserve Bank on February 20, 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) and subsequent issuance of shares against 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 3rd May 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated as Radex Spacecomm Limited (CIN: U32202KA1994PLC015460) under the Companies Act, 1956 on April 4, 1994. The name of the company was subsequently changed to Radex Subex Cellcomm Limited on February 19, 1996 and further to Cellcomm Solutions Limited on February 21, 2005. The applicant is mainly engaged in business of wireless communication, embedded systems, RF coverage enhancement etc.

2.1 On June 01, 2017 the company granted ESOP Options under Cellcomm SAR (Stock Appreciation Rights) 2017 Scheme to three NRI employees of the company. Details of options granted are given below:

Name of the Employee	No. of Options Granted	Date of Grant of Options
Mahesh Krishnakutty	8000	01-06-2017
Anukrishnadas Chettoor	12000	01-06-2017
Vipin P M	8000	01-06-2017

Pursuant to the Cellcomm SAR 2017 Scheme, on September 17, 2018 the company allotted following number of shares to the three NRI employees against the above mentioned options granted in a non-cash transaction by converting ESOPs into equity:

Name of the Employee	No. of Shares Allotted	Date of allotment of shares	Value of Shares Allotted (INR)
Mahesh Krishnakutty	486	17-09-2018	64,000
Anukrishnadas Chettoor	729	17-09-2018	96,000
Vipin P M	486	17-09-2018	64,000

2.2 The applicant had granted stock options to person resident outside India and delayed reporting at the time of (a) grant of options and (b) allotment of shares. Due date for filling of Form ESOP was July 01, 2017 however, the applicant filed the Form ESOP through FIRMS portal only on December 14, 2018. Similarly, due date for reporting allotment of shares by filing Form FC-GPR was October 17, 2018 which the



applicant had filed on January 01, 2019 with delay. Therefore, the applicant had contravened the Regulation 8(2) (from July 01, 2017 to January 01, 2019) of Notification No. FEMA 20/2000-RB. Subsequently reporting of Form ESOP and FC-GPR was taken on record.

3. The applicant committed the following contraventions of FEMA provisions as laid down under Notification No. FEMA 20/2000-RB, as then applicable:-

In terms of Regulation 8(2) of Notification No. FEMA 20/2000-RB *“The issuing company shall furnish to the Reserve Bank , within thirty days from the date of issue of shares under the scheme, a report giving the following particulars/documents, - i) names of persons to whom shares are issued under the scheme and number of shares issued to each of them; ii) a certificate from the Company Secretary of the issuing company that the value of shares issued under the scheme does not exceed 5% of the paid up capital of the issuing company and that the shares are issued in compliance with the regulations issued by the SEBI in this behalf.”*

Regulation 8 of FEMA 20/2000-RB was substituted w.e.f. June 11, 2015 which states that, *“(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.”

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. FED.CO.CEFA.No./5722/15.20.67/2018-19 dated March 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide email dated May 06, 2019 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. 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 as amended from time to time. The contravention relates to grant of ESOPs equivalent to an amount of **Rs. 3,456,880/-** and subsequent allotment of shares. The period of contravention ranges from **July 01, 2017 to January 01, 2019 i.e. one year and six months** approximately.

6. It has been declared in the compounding application dated February 12, 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.

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.13,750/- (Rupees thirteen thousand seven hundred and fifty 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 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.13,750/- (Rupees thirteen thousand seven hundred and fifty 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 17th day of June, 2019

Sd/-

Manmohan
Deputy General Manager