



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: October 22, 2019
C.A. BGL 472/2019

In the matter of

M/s Quavac India Private Limited
No. 704, Brigade IRV Centre
Nallurhalli, 2nd Main, Whitefield
Bengaluru – 560066

(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 August 09, 2019, received at this office of Reserve Bank of India, Bengaluru on August 09, 2019, and addendum to the application dated October 11, 2019, 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, (ii) delay in refund of excess share application money beyond 180 days from the date of receipt of inward remittance, and (iii) delay in submission of form FC-GPR to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 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 Quavac India Private Limited, was incorporated on May 12, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of water collection, treatment and supply. The applicant had received funds towards share application money from the non-resident investor, namely, M/s Quavac Holding BV, Netherlands, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	30-05-2015	45,14,250.00	23-06-2015
2	27-06-2015	70,50,000.00	27-07-2015
3	06-07-2015	69,37,000.00	27-07-2015
4	28-08-2015	35,52,000.00	17-12-2015
	Total	2,20,53,250.00	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay of two months and twenty days, beyond the stipulated period of 30 days in respect of the remittance as indicated at serial number 4, 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 equity shares to the non-resident investor, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000-RB, dated May 03, 2000. However, on one occasion, the company had refunded excess share application money, beyond 180 days from the date of inward remittance to the non-resident investor, as detailed below :



The company had received an inward remittance of ₹45,14,250.00 on May 30, 2015, from the non-resident investor, M/s. Quavac Holding BV, The Netherlands, and allotted 45000 equity shares worth ₹45,00,000.00, to the investor on June 20, 2015, leaving behind an excess of ₹14,250.00. The excess share application money was refunded to the investor on May 02, 2018, with a delay, beyond the stipulated period of 180 days, from the date of receipt of inward remittance, with prior approval of the Reserve Bank. The company was given approval vide Reserve Bank's letter Ref No.FE.BG.FID.No.667/21.10.004/2017-18, dated September 12, 2017. The amount of contravention is **₹14,250.00**, and the period of delay is two years five months and six days.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification no. FEMA 20/2000- RB, dated May 3, 2000 and as amended from time to time, 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.

4. The applicant company had allotted shares and filed form FC-GPR with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	20-06-2015	45000 equity	45,00,000.00	16-07-2015
2	08-07-2015	13987 CCDs	1,39,87,000.00	09-08-2016
3	19-10-2015	3552 CCDs	35,52,000.00	09-08-2016
	Total	45000 – Equity ; 17539 – CCDs	2,20,39,000.00	

The applicant filed the form FC-GPR on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from eight months and twenty two days to one year and two days,



beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 2 and 3, 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 the 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 person/s resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.1029/22.10.004/2019-20, dated October 18, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. JB Venkatkrishnan, Director and Mr. M. Muragaiah, Finance & Accounts Manager, who appeared for the personal hearing on October 22, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, the authorized representatives 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 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 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 remittance received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹35,52,000.00**, and the period of delay ranges is two months and twenty days;



(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to delay in refund of excess share application money beyond 180 days from the date of receipt of inward remittances, as detailed in paragraph 3 above. The total amount of contravention is **₹14,250.00**, and the period of delay ranges is two years five months and six days; and

(c) 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 person/s resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **₹1,75,39,000.00**, and the period of delay ranges from eight months and twenty two days to one year and two days.

7. It has been declared in the compounding application dated August 09, 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 undertaking, furnished as part of 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 is 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 **₹79,967.00, (Rupees Seventy Nine Thousand Nine Hundred and Sixty Seven only)**, will meet the ends of justice.



9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 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 **₹79,967.00, (Rupees Seventy Nine Thousand Nine Hundred and Sixty Seven 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”, 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 Second day of October 2019.

Sd/-

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