



In the

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

Present

Shri. P Kalyan Chakravarthy
Assistant General Manager

Date: May 20, 2019
C.A. HYD 407

In the matter of

M/s. Novisync Solutions India Private Limited
11-9-28, Plot No 62, Daspalla Hills
Visakhapatnam, Andhra Pradesh – 530 002

(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 filed the compounding application dated January 30, 2019 received by us on February 14, 2019 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity, (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India, (iii) delay in receipt of consideration after allotment of shares to a person resident outside India and (iv) delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) in terms



of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8, 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 (herein after referred to as Notification No. FEMA 20/2000-RB) 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.

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, 2013 on September 08, 2015 (CIN No: U72900AP2015FTC097327). The company is engaged in the business of information technology services industry in India and abroad.
- b) The applicant had received the following foreign inward remittances since inception from a foreign investor as indicated below.

SI No	Name of the Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Novisync Solutions Inc., USA	98,586	07.08.2017	24.03.2018
	Total	98,586		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 98,586/- to the Regional Office of Reserve Bank of India with approximate delay of 6 months and 18 days beyond the prescribed limit, in contravention to Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB.

- c) The company allotted equity shares and filed form FC-GPRs as indicated

SI No	Name of the investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	Novisync Solutions Inc., USA	08.09.2015	9,900	99,000	28.12.2018



below

The applicant filed form FCGPRs for the allotment of shares amounting to ₹ 99,000/- as indicated above, which was reported with a delay of 3 years 2 months and 20 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

- d) The applicant has delayed in receiving inward remittance of ₹ 99,000/- after the allotment of 9,900 shares to M/s Novisync Solutions Inc., USA with a delay of 1 year 11 months approximately, in contravention of Paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000-RB dated May 03, 2000 as amended from time to time

SI No	Name of Remitter	Amount (INR)	Date of allotment	Date of Receipt
1	Novisync Solutions Inc., USA	99,000	08.09.2015	07.08.2017
Total		99,000		

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

SI No	Particulars	Financial year	Due date of filing the return	Date of actual filing
1	FLA Return	2015-16	15.07.2016	03.04.2019
2	FLA Return	2016-17	15.07.2017	03.04.2019
3	FLA Return	2017-18	15.07.2018	03.04.2019

shown below:



Whereas in terms of Para 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/ 2597 /14.66.003/2018-19 dated May 15, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide e-mail dated May 17, 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 **₹ 98,586/-** and the period of contravention is 6 months 18 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to a person resident outside India and the contravention relates to an amount of **₹ 99,000/-** and the period of contravention is 3 years 2 months 20 days approximately.



(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in receipt of consideration after allotment of shares to a person resident outside India and the contravention relates to an amount of ₹ 99,000/- and the period of contravention is 1 year 11 months approximately.

(d) Paragraph 9(2) of Schedule I to Notification No. FEMA 20/2000-RB and Paragraph 13.1(3) of Schedule I to 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 three financial years viz. 2015-16 to 2017-18, with delays ranging from 8 months 19 days to 2 years 8 months 19 days approximately.

5. It has been declared in the compounding application dated January 30, 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 January 30, 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 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.

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 **₹ 64,897/- (Rupees Sixty Four Thousand Eight Hundred Ninety Seven Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B), Paragraph 8, Paragraph 9(2) of Schedule 1 to Notification No. FEMA-20/2000-RB 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 **₹ 64,897/- (Rupees Sixty Four Thousand Eight Hundred Ninety Seven 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 accordingly.

Dated this 20th day of May 2019

Sd/-

(P Kalyan Chakravarthy)

Assistant General Manager