



In the

**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Shri. K S Praveen**  
**Assistant General Manager**

Date: May 13, 2019  
**C.A. BGL 392/2019**

In the matter of

**M/s Verodatatex India Private Limited**  
No. 180, Survey No.151, Hoodi Village  
EPIP Industrial Area, 2<sup>nd</sup> Phase, Whitefield  
Bengaluru 560102  
**(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 February 25, 2019, received at this office of Reserve Bank of India, Bengaluru, on February 28, 2019, and addendum to the compounding application dated March 05, 2019, received on April 04, 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, allotment of shares prior to the receipt of inward remittance and delay in refund of excess share application money to the foreign investor, persons resident outside India, beyond 75 days from the date of receipt of the inward remittance, in terms of Paragraph 2 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified, vide Notification No. FEMA 20(R)/2017-RB dated



November 07, 2017, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB).

2. The relevant facts of the case are as follows: The applicant, M/s Verodatatex India Private Limited, was incorporated on December 22, 2017, 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 trading in information technology products related to datatex specialized software programs and solutions primarily for the use of textile industries.

3. The company had allotted 2,000 equity shares worth ₹2,00,000.00, to the non-resident investor, M/s Datatex AG, Switzerland. However, part of the amount of consideration in respect of the aforesaid allotment was received after the shares were allotted to the investor and the excess share application money received during this allotment was refunded beyond 75 days from the date of inward remittance to the non-resident investor, as mentioned below:

- i. The company had received inward remittances of ₹1,94,174.53, and ₹10,757.70, amounting to ₹2,04,932.23, from the non-resident investor, M/s Datatex AG Switzerland, on February 12, 2018, and September 28, 2018, respectively, and allotted 2,000 equity shares worth ₹2,00,000.00, to the non-resident investor. The excess share application money of ₹4,932.23, was refunded to the non-resident investor on January 21, 2019, with a delay beyond the stipulated period of 75 days; and
- ii. The Company had allotted 2,000 equity shares worth ₹2,00,000.00, to the non-resident investor, M/s Datatex AG Switzerland, on December 22, 2017. However, part of the share application money of ₹5,825.47, was received on September 28, 2018, after the date of allotment of shares.

Whereas, in terms of Paragraph 2 of Schedule 1 to Notification No. FEMA 20 (R)/2017- RB dated November 07, 2017, issue of capital instruments by an Indian company against any funds payable by it to the investor shall be paid as



inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ Escrow account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016 and capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration. If, the capital instruments are not issued within sixty days from the date of receipt of the consideration, the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR(B) accounts, as the case may be, within fifteen days from the date of completion of sixty days.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4271 /22.11.478/2018-19, dated April 04, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Gopikrishna Purushotham, Finance Manager, M/s Ravi Prasad, Chartered Accountant, and Mr. Ashish Dugar, Chartered Accountant, who appeared for the personal hearing on April 11, 2019, admitted the contraventions as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that, as the contravention was not intentional or with a malafide intention and was mainly due to inadvertence, 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.

5. 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 provision issued in terms of:



(a) Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2000-RB, as the applicant had allotted the shares prior to receipt of inward remittance and refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 75 days from the date of receipt of amount of consideration, as detailed in paragraph 3 above. The contravention relates to an amount of **₹10,757.70**, and the period of delay ranges from one month and ten days to nine months and six days.

6. It has been declared in the compounding application dated February 25, 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 dated February 25, 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 contravention which is 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.

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 **₹500.00 (Five Hundred only)**, will meet the ends of justice.



8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2017-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 **₹500.00 (Five Hundred only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and 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 Thirteenth day of May 2019.

**Sd/-**

**(K S Praveen)**  
**Assistant General Manager**