



In the

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

Present

Smt. K S Jyotsna
General Manager

Date: October 22, 2019
C.A. BGL 467/2019

In the matter of

M/s Xiaomi Technology India Private Limited
Orchid(Block E), Ground Floor to 4th Floor
Embassy Tech Village, Marathahalli
Sarjapur Outer Ring Road
Bengaluru - 560103
(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 05, 2019, received at this office of Reserve Bank of India, Bengaluru on August 06, 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 to the foreign investors, persons resident outside India, beyond 180 days from the date of receipt of the inward remittances, and (iii) delay in submission of form FC-GPRs 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, 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 Xiaomi Technology India Private Limited, was incorporated on October 07, 2014, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Assistant Registrar of Companies, Karnataka. The activity undertaken by the company is wholesale of telephone, mobile phone and communications equipment and parts. The applicant had received funds from the non-resident investor, namely, M/s Xiaomi Singapore PTE Limited, Singapore, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	17-11-2014	61,25,000.00	29-01-2015
	Total	61,25,000.00	

The applicant reported receipt of remittance to the Reserve Bank of India / Authorized Dealer Bank, with a delay of one month and twelve days, beyond the stipulated period of 30 days, in respect of the remittance indicated 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 received an inward remittance of ₹61,25,000.00, on November 17, 2014, from the non-resident investor M/s Xiaomi Singapore PTE Limited, Singapore, and allotted 10,000 equity shares worth ₹61,00,000.00, on November 18, 2014, leaving behind an excess of ₹25,000.00. The excess share application money of ₹25,000.00, was refunded on April 09, 2019, to the non-resident investor, with a delay beyond the stipulated period of 180 days from the



date of receipt of inward remittance, with prior approval from Reserve Bank of India. The company was accorded approval to refund the excess share application money, vide Reserve Bank's letter No.FE.BG.FID.No.3964/21.09.651 /2018-19, dated March 26, 2019.

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 equity shares and filed form FC-GPR with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	18-11-2014	10000	61,00,000.00	24-11-2015
	Total		61,00,000.00	

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 of eleven months and six days, beyond the prescribed period of 30 days, in respect of the allotments as indicated 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. 1028/22.09.651/2019-20, dated October 18, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative Mr. Radhesh R Bhat, Company Secretary, who appeared for the personal hearing on October 21, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. The representative of the applicant requested that as the contraventions were 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.

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 remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹61,25,000.00**, and the period of delay is one month and twelve days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in Paragraph 3 above. The contravention relates to an amount of **₹25,000.00**, and the period of contravention is three years ten months and twenty four 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-GPR 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 **₹61,00,000.00**, and the period of delay is eleven months and six days.

7. It has been declared in the compounding application dated August 05, 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 August 01, 2019, 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 **₹37,943.00, (Rupees Thirty Seven Thousand Nine Hundred and Forty Three 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 **₹37,943.00, (Rupees Thirty Seven Thousand Nine Hundred and Forty Three 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/-

(K S Jyotsna)
General Manager