In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Arundhati Mech
Regional Director, Tamil Nadu and Puducherry and
Chief General Manager, Chennai

Date: April 8, 2019
C.A.880/2017

In the matter of

M/s. Skilworth Technologies Pvt Ltd.
No.20C/2A, Sarangapani street
T Nagar
Chennai-600 017.

(Applicant)

In exercise of the powers 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 08, 2019 (received at Reserve Bank on February 12, 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 submission of Form FC-GPR on allotment of shares with Reserve Bank and (ii) delay in refund of excess inward remittance received, in terms of Paragraph 9(1)B and Paragraph 8 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 3, 2000, as then applicable (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 on February 13, 2007 under the provisions of the Companies Act, 1956 (Registration No: U72900TN2007PTC075663) and is engaged in the business of providing software support and maintenance to its clients. The applicant received seven foreign inward remittances from June 17, 2013 to December 21, 2016 amounting to ₹45,08,25,750.00 from Bijlipay Asia Pte Ltd (formerly Waltech Asia Pte Ltd), Singapore towards subscription to equity shares and reported the same to Reserve Bank.

3. The company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	No. of shares	Face Value (in Rs.)	Amount (INR)	Date of allotment	Reported to RBI on
1	1,90,000	10	5,98,50,000.00	13.12.2013	31.12.2013
2	56,318	10	1,90,35,484.00	23.05.2016	13.09.2016
3	4,51,823	10	14,86,49,767.00	05.10.2016	03.11.2016
4	6,07,059	10	7,22,40,021.00	18.01.2017	31.01.2017
5	11,84,873	10	14,09,99,887.00	18.01.2017	29.05.2017

The applicant filed forms FC-GPR as indicated above with delay ranging from two months 21 days to three months 11 days approximately beyond the prescribed period in respect of allotment at Sl.No.2 & 5. Whereas in terms of paragraph 9(1)B of Schedule I 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company refunded the excess amount of inward remittances received as detailed in the table:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	18.10.2013	50,000.00	09.07.2014

The company refunded the excess inward remittance with delay of two months 21 days approximately beyond the prescribed period of 180 days with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated September 10, 2018. The applicant has filed a compounding application dated February 8, 2019. It has been declared in the compounding application 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 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/him/her thereafter. 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. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 1, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on April 3, 2019 during which Shri Pradeep Oommen, Director and Shri Vivek Anand, Auditor represented the applicant. The authorized representatives of the applicant

admitted the contraventions as stated in para 3 and 4 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 9 (1) B of Schedule 1 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 persons resident outside India and the contravention relates to an amount ₹16,00,35,371.00 with duration of contravention ranging from two months 21 days to three months 11 days approximately; and

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with para 5 of AP (DIR Series) Circular No.20 dated December 14, 2007 due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹50,000.00 with the duration of contravention being two months 21 days approximately.

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 **₹56,650/-** (Rupees Fifty six thousand six hundred and fifty only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ **56,650/-** (Rupees Fifty six thousand six hundred and fifty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 Eighth day of April, 2019.

Sd/-
Arundhati Mech
Regional Director, Tamil Nadu and Puducherry and
Chief General Manager, Chennai