



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: November 27, 2019
C.A. BGL 495/2019

In the matter of

M/s Huawei Digital (India) Private Limited
Crescent 4, 2nd Floor, Prestige Shantiniketan
Mahadevapura Post, Whitefield
Bengaluru 560048

(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 29, 2019, received at this office of Reserve Bank of India, Bengaluru on September 18, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA), and the regulations issued there under. The contravention sought to be compounded is delay in reporting of receipt of foreign inward remittances towards subscription to equity, in terms of Paragraph 9(1)(A), 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 Huawei Digital (India) Private Limited, was originally incorporated as M/s Huawei



Symantec Storage and Network Security (India) Private Limited, on December 29, 2010, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka. Subsequently, the name of the company was changed as M/s Huawei Digital (India) Private Limited, on May 03, 2012, as per the Certificate of Incorporation, issued pursuant to change of name, by Registrar of Companies, Karnataka. The company is engaged in the business of selling, marketing, exporting, importing of all kinds of computer software and all computer related applications and providing support services. The applicant had received funds towards share application money from the non-resident investors, namely, M/s Huawei Digital Technologies (Hong Kong) Co. Ltd (Formerly M/s Huawei Symantec Technologies Co. Ltd), Hong Kong, and M/s HS USA Inc, USA, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	07-03-2011	1,18,80,000.00	03-08-2011
2	16-06-2011	1,18,80,000.00	29-11-2011
3	18-07-2011	1,20,000.00	02-09-2011
4	28-09-2011	1,18,80,000.00	09-03-2012
5	08-08-2011	1,20,000.00	02-09-2011
	Total	3,58,80,000.00	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from sixteen days to four months and thirteen days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 1 to 4, in 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 applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.1255/22.07.940/2019-20, dated November



14, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Sandeep Kumar, Practicing Company Secretary and Ms. Manila Bhatia, Company Secretary, who appeared for the personal hearing on November 25, 2019, admitted the contraventions as stated in paragraph 2 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.

4. 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:

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 **₹3,57,60,000.00**, and the period of delay ranges from sixteen days to four months and thirteen days.

5. It has been declared in the compounding application dated August 29, 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.

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 contraventions are to be compounded, and I consider that an amount of **₹68,580.00, (Rupees Sixty Eight Thousand Five Hundred and Eighty only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 9(1)(A) 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 **₹68,580.00, (Rupees Sixty Eight Thousand Five Hundred and Eighty 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 Seventh day of November 2019.

Sd/-

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