



In the

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

Present

Smt. K S Jyotsna
General Manager

Date: October 10, 2019
C.A. BGL 458/2019

In the matter of

M/s Royal Cyber Private Limited
IndiQube-ETA, 2nd Floor, Survey No.38/4
Mahadevpura, Doddenakundi, Outer Ring Road
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 July 30, 2019, received at this office of Reserve Bank of India, Bengaluru on July 31, 2019, and addendum to application dated September 30, 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 remittance towards subscription to equity, (ii) delay in refund the excess share application money, and (iii) delay in submission of form FC-GPR 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, 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 Royal Cyber Private Limited, was incorporated on May 23, 2013, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is to carry on the business of software design and development, testing, sales, consulting, support service and related activities. The applicant had received funds towards share application money from the non-resident remitter, M/s Royal Cyber Inc, USA, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	04-03-2014	1,03,649.00	24-10-2014
2	18-02-2015	61,31,000.00	Not reported in form ARF
	Total	62,34,649.00	

The company had not reported the inward remittance mentioned at serial number 2, in the Table – 1 above, to AD/RBI. Since, reporting in form ARF was discontinued with effect from September 01, 2018, (date on which Single Master Form (SMF) reporting in FIRMS portal was implemented) the delay/contravention period for non-reporting of the said inward remittance has been considered till August 31, 2018.

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from six months and twenty one days to three years five months and eleven days, beyond the stipulated period of 30 days in respect of the remittances as 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 allotted equity shares to the non-resident investor, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000-RB, dated May 03, 2000. However, in the instances mentioned here below, the company had refunded the excess share application money, to the non-resident investor, beyond the stipulated period of 180 days from the date of receipt of inward remittances.

i) The company had received an inward remittance of ₹1,03,649.00, on March 04, 2014, from the non-resident investor, M/s Royal Cyber Inc, USA, and allotted 1,00,000 equity shares worth ₹1,00,000.00, on March 13, 2014, to the nominee shareholders Mustafa Peshawarwala, USA and Munira Peshawarwala, USA (50,000 equity shares each). The excess share application money of ₹3649.00, was refunded to the investor on November 15, 2016, with a delay of two years two months and fifteen days, beyond the stipulated period of 180 days from the date of receipt of inward remittance, with prior approval of Reserve Bank of India. The amount of contravention is **₹3649.00**, and the period of delay is two years two months and fifteen days.

ii) The company had received an amount of ₹61,31,000.00, on February 18, 2015, from the non-resident investor M/s Royal Cyber Inc, USA, and allotted 59,00,000 equity shares worth ₹59,00,000.00, to the non-resident investor on April 17, 2015. The excess share application money of ₹2,31,000.00, was refunded to the investor on June 17, 2019, with a delay of three years and ten months, beyond the stipulated period of 180 days from the date of receipt of inward remittance, with prior approval of Reserve Bank of India. The amount of contravention is **₹2,31,000.00**, and the period of delay is three years and ten months.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000, as amended from time to time, and read with AP (Dir series) Circular No. 20, dated December 14, 2007, 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. In the above mentioned instances, the total amount of contravention is ₹2,34,649.00, and the period of delay ranges from two years two months and fifteen days to three years and ten months.

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	13-03-2014	100000	1,00,000.00	30-10-2015
2	17-04-2015	5900000	59,00,000.00	28-09-2016
	Total		60,00,000.00	

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 ranging from one year four months and eleven days to one year six months and eighteen days, beyond the prescribed period of 30 days in respect of the allotment of shares 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.917/22.09.583/2019-20, dated October 3, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative Mr. Abdul



Rahman, Finance Manager, who appeared for the personal hearing on October 04, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 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 representative of the applicant 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.

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 **₹62,34,649.00**, and the period of delay ranges from six months and twenty one days to three years five months and eleven days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to delay in refund the excess share application money, beyond 180 days from the date of receipt of inward remittance, as detailed in paragraph 3 above. The total amount of contravention is **₹2,34,649.00**, and the period of delay ranges from two years two months and fifteen days to three years and ten months; 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 **₹60,00,000.00**, and the period of delay ranges from one year four months and eleven days to one year six months and eighteen days.



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 contraventions are to be compounded, and I consider that an amount of **₹1,03,181.00 (Rupees One Lakh Three Thousand One Hundred and Eighty One only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contravention 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 **₹1,03,181.00 (Rupees One Lakh Three Thousand One Hundred and Eighty One 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 Tenth day of October 2019.

Sd/-

(K S Jyotsna)
General Manager