



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

Present

V R Venkatesh
General Manager

Date: July 17, 2019
C.A.898/2018

In the matter of

M/s. Clearone Innovation India Pvt Ltd.
TEK Towers, No.11, Old Mahabalipuram Road
Okkiyam, Thoraipakkam village
Chennai – 600 097

(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 March 01, 2019 (received at Reserve Bank on March 26, 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 to Reserve Bank on allotment of shares in terms of Regulation 13.1(2) of



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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) and (ii) delay in refund of receipt of consideration in terms of Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB.

2. The relevant facts of the case are as follows: The applicant company was incorporated on December 27, 2017 under the provisions of the Companies Act, 2013 (Registration No. U32109TN2017FTC120230) and is engaged in the business of manufacture of other electronic consumer goods n.e.c. The applicant received one foreign inward remittance of ₹70,30,800.00 on April 12, 2018 from M/s. Clearone Incorporated, USA, towards subscription to MoA shares. Against the above remittance, the company allotted shares for ₹70,00,000.00 on April 12, 2018 and filed the FCGPR with Reserve Bank as detailed below:

Sl. No	No. of shares allotted	Face Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	700000	10	70,00,000.00	12.04.2018	07.09.2018

The applicant filed form FC-GPR as indicated above with delay of 3 months 26 days approximately beyond the prescribed period of 30 days. Whereas in terms of Regulation 13.1(2) of Notification No. FEMA 20(R)/2017-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.

3. The company refunded the balance amount of ₹30,800.00 after allotment of shares as detailed below:

Sl. No.	Date of receipt	Amount (₹)	Date of refund
1	12.04.2018	30,800.00	22.04.2019



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The company refunded the receipt of consideration with a delay of 9 months 27 days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20R/2017-RB, if 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 within fifteen days from the date of completion of sixty days.

4. The applicant was advised about the contravention vide memorandum dated December 20, 2018. The applicant has filed a compounding application dated March 01, 2019 wherein 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 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. However, the company had failed to pay late submission fee and hence was referred to Directorate of Enforcement (DoE) vide letter dated December 11, 2018. Accordingly, Reserve Bank vide letter Che.FED.FID/3636/25.27.999/2018-19 dated May 30, 2019 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to Rule 8(2) to Compounding Rules to compounding the contraventions sought to be compounded by the applicant. A reminder dated July 02, 2019 was issued to DoE in this regard giving them 7 days to respond. DoE has not furnished any response whatsoever. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated July 09, 2019 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant vide mail dated



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July 11, 2019 chose not to appear for the personal hearing. The applicant, in the compounding application, had admitted the contraventions as stated in paragraphs 2 and 3 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.

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

- a) Regulation 13.1(2) of Notification No. FEMA 20(R)/2017-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 2 above. The contravention relates to an amount of ₹70,00,000.00 with the duration of contravention being 3 months 26 days approximately.
- b) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of receipt of consideration as detailed in paragraph 3 above. The contravention relates to an amount of ₹30,800.00 with the duration of contravention being 9 months 27 days approximately.

7. In terms of Section 13 of the FEMA, 1999, 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 **₹87,526/-** (Rupees eighty seven thousand five hundred and twenty six only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of Regulation 13.1(2) of Notification No. FEMA 20(R)/2017-RB and the contravention of



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paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-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 **₹87,526/-** (Rupees eighty seven thousand five hundred and twenty six 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 seventeenth day of July, 2019.

Sd/-
V R Venkatesh
General Manager