



In the

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

Present

Smt. K S Jyotsna
General Manager

Date: November 20, 2019
C.A. BGL 470/2019

In the matter of

M/s Acuta Infotech Private Limited
76, 3rd Cross, Residency Road
Bengaluru - 560025

(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 27, 2019, received at this office of Reserve Bank of India, Bengaluru on August 07, 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, and (ii) 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) 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 Acuta Infotech Private Limited, was originally incorporated on March 24, 2011, as



M/s. Shingwar Technologies Private Limited, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. Subsequently, the name of the company was changed to M/s. Acuta Infotech Private Limited, on September 03, 2013, as per the Certificate of Incorporation issued consequent upon Change of Name, by the Registrar of Companies, Karnataka. The company is engaged in the business of providing computer software and information technology related services to its clients. The applicant had received funds towards share application money from the non-resident investor, namely, Mr. Madhu S Kumar, USA, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	08-08-2011	13,45,052.00	03-10-2011
2	19-09-2011	9,53,523.00	03-10-2011
3	30-11-2011	10,40,480.00	17-12-2011
4	07-05-2012	10,63,268.00	24-07-2013
5	03-07-2012	13,68,203.00	24-07-2013
6	29-08-2012	4,44,404.00	24-07-2013
	Total	62,14,930.00	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from twenty six days to one year one month and eighteen days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 1, 4, 5 and 6, 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 company had allotted equity shares and filed form FC-GPRs 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	20-01-2012	166952	33,39,040.00	14-02-2012
2	30-10-2012	287587	28,75,870.00	24-07-2013
	Total	454539	62,14,910.00	

The applicant filed the form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay of seven months and twenty five days, beyond the prescribed period of 30 days in respect of the allotment of shares as indicated at serial number 2, 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.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1285/23.09.346/2019-20, dated November 14, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative Mr. Veeresh N S, V P Operations, who appeared for the personal hearing on November 19, 2019, admitted the contraventions as stated in paragraphs 2 and 3 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 representative 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.



5. 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 **₹42,20,927.00**, and the period of delay ranges from twenty six days to one year one month and eighteen days; and

(b) Paragraph 9 (1) (B) of Schedule I 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 person/s resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of **₹28,75,870.00**, and the period of delay is seven months and twenty five days.

6. It has been declared in the compounding application dated July 27, 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 November 12, 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.

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 **₹28,130.00, (Rupees Twenty Eight Thousand One Hundred and Thirty only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) 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 **₹28,130.00, (Rupees Twenty Eight Thousand One Hundred and Thirty 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 Twentieth day of November 2019.

Sd/-

(K S Jyotsna)
General Manager