



In the
Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present
Shri J.K. Pandey
Chief General Manager

April 10, 2019

CA No. MUM 826/2019

In the matter of
M/s Spadeworx Software Services Pvt Ltd
101B, First Floor, Nano Space IT Park,
5/1B/2, Baner,
Pune 411 045
(Applicant)

In exercise of the powers conferred under section 15(1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

- 1** The applicant has filed the compounding application dated January 16, 2019, received at the Reserve Bank on January 23, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are in respect of the following Regulations/ paras under Schedule 1 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 and as amended from time to time (hereinafter referred to as FEMA 20):
 - a)** Para 9 (1) (A) of FEMA 20: Delay in reporting receipt of foreign inward remittance towards subscription to equity
 - b)** Para 9 (1) (B) of FEMA 20: Delay in filing Form FC GPR to Reserve Bank after issue of shares to person resident outside India



2 Brief facts of the applicant company are as follows:

Date of Incorporation	December 29, 2006
Its main activities are:	To deal in computer software and hardware and establish computer training centers

3 The applicant received foreign inward remittance from non-resident investors towards equity shares / compulsorily convertible preference shares/ compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

Delay under 9(1)(A) &/or Para 8						
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, and LSF stands for : Late Submission Fees</u>						
S No/ LSF	Date of inward remittance (DD-MM-YY)	amount received (in INR)	Date of reporting to RBI (DD-MM-YY)	Para 9 (1) A delay	date of allotment / refund (DD-MM-YY)	Para 8 delay
1	19/06/13	10,975,000.00	9/28/2013	0Y 2M 9D	22/07/13	0
	TOTAL	10,975,000.00				

The applicant reported receipt of remittance to the Reserve Bank of India on date indicated above with a delay of 0Y 2M 9D beyond the stipulated time of 30 days. Whereas, in terms of Paragraph 9 (1) (A) of Schedule 1 to FEMA 20, 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.

4 The company allotted equity shares/compulsorily convertible preference shares/compulsorily convertible debentures and filed FC-GPRs as indicated below:

Contravention under Para 9(1)(B)						
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees and FV stands for Face Value</u>						
Sno/ LSF	Date of allotment (DD-MM-YY)	number of shares	FV+ premium (in INR)	Amount (FV*no of shares) (in INR)	Date of reporting (DD-MM-YY)	Para 9 (1) (B) delay
1	22/07/13	109750	100	10,975,000	17/09/13	0Y 0M 26D
	TOTAL			10,975,000		

The applicant filed form FC-GPR as indicated above with a delay of 0Y 0M 26D. Whereas, in terms of Paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20, an Indian company issuing shares in accordance with these Regulations has to submit to RBI a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to Non Resident.



- 5 The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated April 03, 2019. The applicant applied for waiver of personal hearing vide e mail dated April 04, 2019. The applicant, in the compounding application, had admitted the contraventions as stated above for which compounding has been sought. It had been submitted that the contraventions were not wilful and were 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 thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:
- a) Para 9 (1) (A) of FEMA 20, due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed above. The contravention relates to total amount of Rs.10,975,000 (Rupees One Crore Nine Lakh Seventy Five Thousand and Zero Paise Only) with a delay of 0Y 2M 9D approximately.
 - b) Para 9 (1) (B) of FEMA 20, due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to total amount of Rs.10,975,000 (Rupees One Crore Nine Lakh Seventy Five Thousand and Zero Paise Only) with a delay of 0Y 0M 26D approximately.
- 7 It has been declared in the compounding application dated January 16, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to the compounding application that the applicant is not under an enquiry/investigation/adjudication by DoE as on the date of application, however we were in receipt of a letter from DoE dated December 26, 2018 stating that it has initiated an investigation of M/s Valuable Group and M/s Spadeworx Software Services Pvt Ltd is reportedly one of the companies in the said group. Accordingly RBI, vide letter FED.MRO.CEFA/3134/76.01.122/2018-19 dated February 04, 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) of the Compounding Rules to compounding of contraventions sought to be compounded by the applicant. A reminder dated March 08, 2019 was issued to DoE in this regard giving another 7 days to respond. DoE vide its letter RBI/SDE/WR/B-219/2019/4215 dated March 18, 2019 has confirmed its 'no objection' to compounding by RBI in the matter. Accordingly, the above contraventions which are being compounded in this Order, is without prejudice to any action which may be taken by any authority under the extant laws.



- 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 Rs.36,667 (Rupees Thirty Six Thousand Six Hundred Sixty Seven and Zero Paise Only) will meet the ends of justice.
- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (A) of FEMA 20 and Para 9 (1) (B) of FEMA 20, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 36,667 (Rupees Thirty Six Thousand Six Hundred Sixty Seven and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Mumbai 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.
- 10 The above order is passed only in respect of contraventions of Para 9 (1) (A) of FEMA 20 and Para 9 (1) (B) of FEMA 20 and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.
- 11 The application is disposed of accordingly.
dated: April 10, 2019

Compounding Authority

(J.K. Pandey)
Chief General Manager

