



In the

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

Present

Smt. K S Jyotsna
General Manager

Date: August 02, 2019
C.A. BGL 406/2019

In the matter of

M/s Weiwo Communication Private Limited
No.464, Krishna Temple Road
Next to SBI, Indiranagar 1st Stage
Bengaluru - 560038
(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 March 29, 2019, received at this office of Reserve Bank of India, Bengaluru on March 29, 2019, and addendum to the application dated July 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 remittances towards subscription to equity, and (ii) delay in refund of share application money, beyond 180 days from the date of receipt of inward remittance, in terms of Paragraphs 9(1)(A), and 8, 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 Weiwo Communication Private Limited, was incorporated on October 21, 2014, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of wholesale distribution of mobile phones. The applicant had received funds towards share application money from the foreign investors, namely, Mr. She Zhibin, China, Mr. Gui Chunfang, China, M/s. Union Hi-tech Development Limited, Marshall Islands, and Mr. Haidong Ma, China, as shown below:

Table – 1

Sl. No.	Date of Receipt	Amount (INR)	Date of reporting to RBI/AD
1	26-11-2014	6,058.21	21-02-2015
2	26-11-2014	6,14,558.13	03-12-2014
3	26-12-2014	6,15,000.00	08-01-2015
4	08-01-2015	30,00,000.00	02-03-2017
5	09-01-2015	98,40,000.01	15-01-2015
6	09-01-2015	12,30,000.00	15-01-2015
7	13-01-2015	4,68,79,200.00	10-02-2015
8	14-01-2015	30,60,000.00	10-02-2015
9	14-01-2015	28,09,080.00	10-02-2015
10	23-01-2015	29,60,354.00	15-09-2015
	Total	710,14,250.35	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one month and twenty six days to two years and twenty three days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 1, 4 and 10, 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 received an inward remittance of ₹6,058.21 and ₹6,14,558.13, as share application money, from the non-resident investor Mr. She Zhibin, China, on November 26, 2014. The company allotted shares amounting to ₹6,15,000.00 on January 01, 2015. The excess amount of ₹5,616.34 was refunded to the non-resident investor on September 19, 2018, with prior approval from Reserve Bank of India. The company was given approval vide Reserve Bank's letter Ref No.FE.BG.FID.No.785/21.09.461/2017-18, dated September 04, 2018. The amount of contravention is **₹5,616.34**, and the period of delay is three years three months and twenty five days.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000 and as amended from time to time, 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.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 385/22.09.461/2018-19, dated July 31, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Anil Kumar C, Company Secretary, and Mr. Chethan Kumar A, Practicing Company Secretary, who appeared for the personal hearing on August 01, 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 representatives of the company requested Reserve Bank 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 **₹59,66,412.21**, and the period of delay ranges from one month and twenty six days to two years and twenty three days; and

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to delay in refund of share application money, beyond 180 days from the date of receipt of inward remittances, as detailed in paragraph 3 above. The total amount of contravention is **₹5,616.34**, and the period of delay is three years three months and twenty five days.

6. It has been declared in the compounding application dated March 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 with 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 **₹18,686.00 (Rupees Eighteen Thousand Six Hundred and Eighty Six only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 8, 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 **₹18,686.00 (Rupees Eighteen Thousand Six Hundred and Eighty Six 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 Second day of August 2019.

Sd/-

(Smt. K S Jyotsna)
General Manager