



In the

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

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: September 09, 2019
C.A. BGL 435/2019

In the matter of

M/s Finnew Solutions Private Limited
5th Floor, Delta Block, Sigma Soft Tech Park
Varthur Road, Phase 2 Whitefield
Bengaluru - 560066
(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 May 06, 2019, received at this office of Reserve Bank of India, Bengaluru on June 07, 2019, and addendum to the compounding application dated August 26, 2019, received on August 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 reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in refund of excess share application money to the foreign investors, persons resident outside India, beyond 180 days from the date of receipt of the inward remittances, and (iii) 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), 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, 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: M/s Finnew Solutions Private Limited, was incorporated on November 23, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation, issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is to provide technology based innovative solutions around financial services to individuals and corporates. The applicant had received funds towards share application money from the non-resident investor, namely, M/s Niyo Solutions INC, USA, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	28-12-2015	82,54,617.00	19-03-2016
2	26-04-2016	7,96,071.00	19-05-2016
3	12-05-2016	66,47,670.00	01-06-2016
4	25-05-2016	6,71,155.00	02-06-2016
5	19-07-2016	67,06,658.40	14-04-2017
6	28-09-2016	66,40,671.60	14-04-2017
7	22-11-2016	2,03,98,640.00	07-12-2016
8	05-05-2017	1,28,28,717.00	14-07-2017
9	02-06-2017	1,28,50,714.80	14-07-2017
10	25-07-2017	2,25,10,713.60	24-08-2017
11	20-09-2017	3,21,23,715.00	17-10-2017
12	26-09-2017	18,78,483.60	14-10-2017
	Total	13,23,07,827.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from twelve days to seven months and twenty seven days, beyond the stipulated period of 30 days in respect of remittances as indicated at serial numbers 1, 5, 6, 8 and 9, 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 foreign investors in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB, dated May 03, 2000. However, after share allotment, there was excess share application money, which the company refunded to the non-resident investor with a delay. Below mentioned are the instances where the company has refunded the excess share application money to the non-resident investor beyond the stipulated period of 180 days with the approval of Reserve Bank of India:

- i) The company had received inward remittances, amounting to ₹3,53,61,428.40, in two tranches, from the non-resident investor M/s. Niyo Solutions INC, USA, on June 02, 2017 and July 25, 2017. The company had allotted 1,17,846 equity shares worth ₹3,53,53,800.00, to the non-resident investor on July 31, 2017, and the excess share application money of **₹7,628.40**, was refunded on August 23, 2019, to the non-resident investor.
- ii) The company had received inward remittances, amounting to ₹3,40,02,198.60, in two tranches, from the non-resident investor M/s. Niyo Solutions INC, USA, on September 20, 2017 and September 26, 2017. The company had allotted 1,13,312 equity shares worth ₹3,39,93,600.00, to the non-resident investor on November 02, 2017, and the excess share application money of **₹8,598.60**, was refunded on August 23, 2019, to the non-resident investor.

The company was accorded approval to refund the excess share application money of **₹16,227.00**, vide Reserve Bank's email dated September 03, 2019. 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, 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 company had allotted equity shares to the non-resident investor and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	31-12-2015	825460	82,54,600.00	27-01-2016
2	20-06-2016	27049	81,14,700.00	18-07-2016
3	11-08-2016	22349	67,04,700.00	19-04-2017
4	12-11-2016	22130	66,39,000.00	19-04-2017
5	01-12-2016	67995	2,03,98,500.00	08-02-2017
6	11-05-2017	42762	1,28,28,600.00	03-10-2017
7	31-07-2017	117846	3,53,53,800.00	03-10-2017
8	02-11-2017	113312	3,39,93,600.00	09-11-2017
	Total	1238903	13,22,87,500.00	

The applicant had filed form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one month and three days to seven months and nine days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 3 to 7, 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 persons resident outside India.



5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID.(CEFA) No. 628/22.09.782/2019-20, dated August 28, 2019, and email dated August 29, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Gourav Kumar, Finance Head, and Mr. Biswajit Ghosh, Practicing Company Secretary, who appeared for the personal hearing on September 09, 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 in seeking approval or reporting 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 representatives 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 **₹4,72,81,378.80**, and the period of delay ranges from twelve days to seven months and twenty seven days;

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in paragraph 3 above. The contravention relates to an amount of **₹16,227.00**, and the period



of contravention ranges from one year seven months and two days to one year four months and twenty nine days; and

(c) 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 resident outside India as detailed in Paragraph 4 above. The contravention relates to an amount of **₹8,19,24,600.00**, and the period of delay ranges from one month and three days to seven months and nine days.

7. It has been declared in the compounding application dated May 06, 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.

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 **₹85,436.00 (Rupees Eighty Five Thousand Four Hundred and Thirty Six only)**, will meet the ends of justice.



9. Accordingly, I compound the admitted contraventions namely, contraventions 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 **₹85,436.00 (Rupees Eighty Five Thousand Four Hundred and Thirty 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 Ninth day of September 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru