



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: May 02, 2019
C.A. BGL 360/2019

In the matter of

M/s Kaalbi Technologies Private Limited
No.1391/16/1 "Shree Arcade"
19th Main, 17h Cross, HSR Layout, Sector - 4
Bengaluru - 560102
(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 January 09, 2019, received at this office of Reserve Bank of India, Bengaluru on January 09, 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, 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 Kaalbi Technologies Private Limited, was incorporated on March 20, 2014, under the Companies Act, 1956. The activity undertaken by the company is developing products and providing services in the field of technology and technology enabled applications. The applicant had received funds towards share application money from the foreign investors, namely, M/s. Broadreach Asset Mgt LLC, USA, M/s. Aecal Asial E-Commerce, Germany, Indira Vemala, Badri Kumar Vemala, and Vemala Family Trust, USA, Mr. Viswanath Poosala, USA, M/s. VH Capital, Mauritius, and M/s. Anthill Scale Ventures Pte Ltd, Singapore, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	18-06-2014	32,76,845.00	19-06-2014
2	21-08-2015	19,84,744.00	14-09-2015
3	07-10-2015	5,00,009.15	18-12-2015
4	28-10-2015	5,56,248.00	18-01-2016
5	16-09-2016	40,66,380.00	12-10-2016
6	19-09-2016	203,01,150.00	12-10-2016
7	06-07-2017	59,35,584.34	05-12-2018
8	10-07-2017	26,18,640.15	09-10-2017
	Total	392,39,600.64	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from one month and twelve days to one year and four months, beyond the stipulated period of 30 days in respect of remittances as indicated at serial numbers 3, 4, 7 and 8, 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 ₹5,00,009.15, from the non-resident investor M/s. Aecal Asial E-Commerce, Germany, on October 07, 2015. The company had allotted 1 equity share and 45 CCPS worth ₹4,94,500.00, and the excess share application money of ₹5,509.15, was refunded to the investor with a delay beyond the stipulated period, on September 22, 2016, with prior approval from Reserve Bank of India. The company was accorded approval to refund the excess share application money, vide Reserve Bank's letter No.FE.BG.FID.No.1473/21.08.980/2016-17 dated September 16, 2016. 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 company had allotted equity shares to the foreign investors and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:

Table – 2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	23-06-2014	524 Equity	29,99,900.00	23-08-2014
2	26-08-2015	178 CCPs	19,13,500.00	14-10-2015
3	17-10-2015	1 Equity 45 CCPs	4,94,500.00	20-01-2016
4	02-11-2015	1 Equity 50 CCPs	5,48,250.00	20-01-2016
5	20-09-2016	3 Equity 266 CCPs	40,13,248.66	06-12-2016
6	20-09-2016	10 Equity 1337 CCPs	200,96,081.58	06-12-2016
7	18-07-2017	238 CCPs	59,35,584.34	05-12-2018



8	18-07-2017	105 CCPs	26,18,640.15	28-12-2017
	Total	539 Equity 2219 CCPs	386,19,704.73	

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 nineteen days to one year three months and eighteen days, beyond the prescribed period of 30 days in respect of allotment of shares indicated 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. 5365/22.08.980/2018-19 dated April 29, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative, Mr. Vijaya Kumar C S, Practicing Company Secretary, who appeared for the personal hearing on May 02, 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, the representative of the applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken 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 **₹96,10,481.64**, and the period of delay ranges from one month and twelve days to one year and four months;
- (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 **₹5,509.15**, and the period of contravention is five months and eighteen 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-GPR 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 **₹3,86,19,704.73**, and the period of delay ranges from nineteen days to one year three months and eighteen days.

7. It has been declared in the compounding application dated January 09, 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 January 08, 2019, 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 are 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 **₹49,453 (Rupees Forty Nine Thousand Four Hundred and Fifty Three 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 **₹49,453 (Rupees Forty Nine Thousand Four Hundred and Fifty Three 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” and 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 May 2019.

Sd/-

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