



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

N Mohana
General Manager

Date : January 04, 2019
C.A.866/2018

In the matter of

M/s. Infantron Magnetics India Pvt Ltd.
New No.27, Bawa Road,
Alwarpet,
Chennai-600 018

(Applicant)

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

Order

The applicant has filed a compounding application dated November 12, 2018 (received at Reserve Bank on December 03, 2018) 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 of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares to



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Reserve Bank (iii) delay in allotment of shares and (iv) allotment of shares prior to receipt of full consideration in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 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 3, 2000 and as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on May 25, 2008 under the provisions of the Companies Act, 1956 (Registration No. U31900TN2008PTC068363) and is engaged in business of electrical machinery, equipment and supplies, n.e.c. The applicant received foreign inward remittance from i) M/s Infantron (S) Pte Ltd., Singapore ii) Mr.Desmond Decker, Singapore iii) Muthusamy Gowthaman, Singapore towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	25,000	25.07.2008	31.12.2008
2	3,50,000	28.08.2008	30.12.2008
3	3,50,000	07.01.2009	11.02.2009
4	4,91,700	03.07.2009	06.08.2009
5	3,18,700	19.02.2010	28.04.2010
6	3,03,390	14.10.2010	20.07.2017
7	3,43,300	30.12.2010	20.07.2017
8	5,09,760	16.09.2011	20.07.2017
9	4,37,300	25.06.2012	20.07.2017
10	5,26,560	09.11.2012	20.07.2017
11	7,18,500	14.08.2013	20.07.2017
12	4,97,800	21.11.2013	20.07.2017
13	4,87,400	14.02.2014	20.07.2017
14	4,76,700	29.09.2014	20.07.2017
15	4,83,600	01.03.2016	20.07.2017

The applicant reported the remittances to the Reserve Bank as indicated above with delay ranging from three days to six years eight months six days approximately beyond the prescribed period of 30 days in respect of the remittances. 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



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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 allotted equity shares and filed the FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	1,00,000	10	10,00,000	23.12.2009	20.07.2017
2	32,470	10	3,24,700	23.12.2009	03.06.2016
3	32,000	10	3,20,000	24.03.2010	15.06.2016
4	64,669	10	6,46,690	30.03.2011	14.06.2016
5	1,47,362	10	14,73,620	10.11.2012	15.06.2016
6	1,70,370	10	17,03,700	24.03.2014	15.06.2016
7	47,670	10	4,76,700	09.10.2014	17.06.2016
8	48,360	10	4,83,600	14.03.2016	10.08.2016

The applicant filed form FC-GPRs as indicated above with delay ranging from three months 27 days to seven years five months 27 days approximately beyond the prescribed limit in respect of the allotment. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company allotted shares on 23.12.2009, 10.11.2012 and 24.03.2014. Some of the remittances for the above allotments were received as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	25,000	25.07.2008	23.12.2009
2	3,50,000	28.08.2008	23.12.2009
3	3,50,000	07.01.2009	23.12.2009
4	5,09,760	16.09.2011	10.11.2012
5	7,18,500	14.08.2013	24.03.2014

The company allotted shares with a delay ranging from one month 10 days to 11 months approximately without prior approval of Reserve Bank. Whereas in terms of



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paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007, the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The company allotted 100000 shares of ₹10/- each on 23.12.2009. A part of the consideration towards the above allotment was received by way of inward remittance as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of Allotment
1	25.07.2018	1,08,000	23.12.2009

The company received the consideration by way of inward remittance with delay of eight years seven months and two days approximately. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, a company issuing the shares or convertible debentures under this Schedule to a person resident outside India shall receive the amount of consideration for such shares by way of inward remittance through normal banking channels or by debit to NRE/FCNR account of the person concerned maintained with an authorized dealer/authorized bank, before actual allotment of shares.

6. The applicant was advised about the contraventions vide memorandum dated May 29, 2018. The applicant has filed a compounding application dated November 12, 2018 wherein it has been declared 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 declaration furnished with the 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/him/her thereafter. 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



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extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

7. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated December 31, 2018 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on January 03, 2019 during which Smt Srilatha, Admin and Accounts Officer represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 to 5 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take a lenient view in the matter. 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 the personal hearing.

8. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and 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 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 63,19,710.00 with duration of contravention ranging from three days to six years eight months six days approximately;

(b) Paragraph 9 (1) B of Schedule 1 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 persons resident outside India. The contravention relates to an amount of ₹ 64,29,010.00 with the duration of contravention ranging from three months 27 days to seven years five months 27 days approximately;



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- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹19,53,260.00 with the duration of contravention ranging from one month 10 days to 11 months approximately; and
- (d) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to allotment of shares prior to receipt of consideration. The contravention relates to an amount of ₹1,08,000.00 with the duration of contravention being eight years seven months two days approximately.

9. 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 **₹1,82,100/-** (Rupees one lakh eighty two thousand one hundred only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹1,82,100/-** (Rupees one lakh eighty two thousand one hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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.



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Dated this Fourth day of January, 2019.

Sd/-
N Mohana
General Manager