



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

C Nageswara Rao
Deputy General Manager

Date: December 18, 2018
C.A. HYD 348

In the matter of

M/s. Mitchell Martin (India) Private Limited
Door No.6-2-966/2, Flat No. 301,
Madhava Apartments, Hill Colony, Khairatabad
Hyderabad – 500 004

(Applicant)

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

Order

The applicant has submitted the compounding application dated November 08, 2018 received by us on November 12, 2018 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of receipt of foreign inward remittances towards subscription of equity, (ii) delay in submission of Form FCGPR to the Reserve Bank after issue of shares to a person resident outside India, (iii) delay in receipt of consideration after



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allotment of shares to a person resident outside India and (iv) delay in refund of excess share application money to a person resident outside India, in terms of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 8 of 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 3rd May 2000 (herein after referred to as Notification No. FEMA 20/2000-RB) as then applicable.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 2013 on November 18, 2014 (CIN: U72200TG2014PTC096438). The company is engaged in the business of “Human resources provision and management of human resources functions”.
- b) The applicant had received foreign inward remittances from single foreign investor as indicated below:

SI No	Name of the Remitter	Amount (INR)	Date of Receipt	Date of Reporting
1	Mitchell Martin Inc	5,19,721	07.01.2015	20.01.2015
2	Mitchell Martin Inc	10,12,313	05.02.2015	06.02.2015
3	Mitchell Martin Inc	99,700	06.10.2015	04.12.2015
4	Mitchell Martin Inc	3,296	25.08.2016	12.09.2016
Total		16,35,030		

The applicant reported receipt of remittances towards share subscription amounting to ₹16,35,030/- to the Regional Office of Reserve Bank of India, out of which remittance amounting to ₹99,700/- was reported with a delay of 29 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should



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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.

- c) The company allotted equity shares and filed form FC-GPRs as indicated below:

SI No	Name of the investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	Mitchell Martin Inc	18.11.2014	9,990	99,900	04.04.2016
2	Mitchell Martin Inc	24.03.2015	1,27,669	15,32,028	01.08.2015
Total				16,31,928	

The applicant filed form FCGPRs for the allotment of shares amounting to ₹16,31,928/- as indicated above, which were reported with a delay ranging from 3 months 9 days to 1 year 3 months 17 days approximately beyond the prescribed limit. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

- d) The applicant allotted shares to the foreign investor prior to the receipt of consideration of share application money as shown below:

SI No	Name of the Remitter	Amount (INR)	Date of Receipt	Date of allotment of shares
1	Mitchell Martin Inc	99,700	06.10.2015	
2	Mitchell Martin Inc	3,296	25.08.2016	18.11.2014
Total		1,02,996		

The applicant received the inward remittance of ₹1,02,996/- after the allotment of shares towards subscription to Memorandum of Association with a delay ranging



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from 10 months 18 days to 1 year 9 months 7 days approximately beyond the prescribed time limit in contravention of Paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000-RB dated May 03, 2000 as amended from time to time.

e) The applicant has delayed in refund of excess share application money of **₹3,096.43** to the foreign investor beyond the stipulated period of 180 days from the date of receipt of remittance. Here the period of contravention is 10 months approximately as shown below.

SI No	Name of the Remitter	Date of receipt	Total amount received (INR)	Total amount allotted (INR)	Excess share application money (INR)	Date of seeking approval from RBI
1	Mitchell Martin Inc	25.08.2016	3296.43	200	3096.43	21.12.2017
		Total			3,096.43	

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB read with A.P (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. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.



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3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1162/14.66.003/2018-19 dated December 12, 2018 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on December 14, 2018 during which Shri. Srinivas Pagadala, Director represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention. In view of the foregoing, the representative of the applicant 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.

4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to **₹99,700/-** with a delay of 29 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of **₹16,31,928/-** with a delay ranging from 3 months 9 days to 1 year 3 months 17 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in receipt of consideration from the foreign investor for the allotment of shares towards Subscription to MoA and the contravention relates to an amount of **₹1,02,996/-** with a delay ranging from 10 months 18 days to 1 year 9 months 7 days approximately.



(d) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in refund of excess share application money to the foreign investor and the contravention relates to an amount of **₹3,096.43** with a delay of 10 months approximately.

5. It has been declared in the compounding application dated November 8, 2018 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 dated November 8, 2018 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. 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.

6. 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 contravention is to be compounded and I consider that an amount of **₹ 13,116/- (Rupees Thirteen Thousand One Hundred Sixteen Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 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 **₹ 13,116/- (Rupees Thirteen Thousand One Hundred Sixteen**



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Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 18th day of December 2018

Sd/-

(C Nageswara Rao)
Deputy General Manager