



In the

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

Present

Dr. K Balu
Chief General Manager

Date : January 10, 2019
C.A.823/2018

In the matter of

M/s. Nimble Wireless Pvt Ltd.,
12-B, Dhanalakshmi Street,
Janaki Nagar, Valasarvakkam,
Chennai- 600 087

(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 August 30, 2018 (received at Reserve Bank on September 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 and (iii) delay in allotment of shares 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 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 company was incorporated on February 13, 2007 under the provisions of the Companies Act, 1956 (Registration No. U32109TN2007PTC062370) and is engaged in business of manufacture of desktop computers, laptop computers, hand-held computers (e.g. PDA), mainframe computers and computer servers. The applicant received foreign inward remittances i) M/s Nimble Wireless Inc., USA ii) Mr. Arun Natarajan, USA towards subscription to equity shares and reported to Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance ₹	Date of receipt	Reported to RBI on
1	4,04,295.30	18.05.2007	10.07.2007
2	9,77,820.00	17.09.2010	02.02.2017
3	30,048.92	22.10.2010	02.02.2017
4	11,23,000.00	18.11.2010	02.02.2017
5	6,25,147.20	12.11.2013	15.04.2015
6	30,18,500.00	29.10.2014	10.11.2014
7	15,33,272.00	01.11.2014	06.04.2015
8	16,45,745.00	28.08.2015	07.09.2015
9	16,88,211.00	25.01.2016	04.02.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 22 days to six years three months 15 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. No.1 to 5 and 7. 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 applicant company allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment	Reported to RBI on
1	4000	100	4,00,000.00	27.07.2007	10.09.2007
2	10000	100	10,00,000.00	29.10.2010	18.02.2017
3	11000	100	11,00,000.00	01.11.2011	18.02.2017
4	98387	1	6,09,999.40	24.03.2014	23.08.2014
5	650253	1	45,51,771.00	09.03.2015	16.04.2015
6	370439	1	33,33,951.00	22.02.2016	18.04.2016

The applicant filed the form FC-GPRs as indicated above with delay ranging from seven days to six years two months 20 days approximately beyond the stipulated time of 30 days in respect of the allotments. 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 received a remittance on 18.11.2010 against which shares were allotted as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	18.11.2010	11,00,000.00	01.11.2011

The shares were allotted with delay of five months 13 days approximately without prior approval of Reserve Bank. Whereas in terms of 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 applicant was advised about the contraventions vide memorandum dated January 08, 2018. The applicant has filed a compounding application dated August 30, 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 dated August 16, 2018 furnished 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 extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

6. The applicant vide letter dated August 16, 2018 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 to 4 above for which compounding has been sought. It had been submitted that the delays were unintentional. 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.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 ₹ 46,93,583.42 with duration of contravention ranging from 22 days to six years three months 15 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



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₹ 1,09,95,721.40 with the duration of contravention ranging from seven days to six years two months 20 days approximately; and

(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 ₹11,00,000.00 with the duration of contravention being five months 13 days approximately.

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 **₹1,14,865/-** (Rupees one lakh fourteen thousand eight hundred and sixty five only) will meet the ends of justice.

9. 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 **₹1,14,865/-** (Rupees one lakh fourteen thousand eight hundred and sixty five 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.

Dated this Tenth day of January, 2019.

Sd/-



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Dr. K Balu
Chief General Manager