



In the

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

Present

Shri P J Thomas
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: January 29, 2019
C.A. BGL 344/2018

In the matter of

M/s Netgear Research India Private Limited
Unit 501, 5th Floor, Embassy Star Palace Road
Vasanth Nagar extension
Bengaluru - 560052
(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 November 26, 2018, received at this Office of the Reserve Bank of India, Bengaluru, on November 27, 2018, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA), and the Regulations issued there under. The contravention sought to be compounded is delay in submission of Form FC-GPR to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraph 9(1)(B) 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, 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, M/s Netgear Research India Private Limited, was incorporated on June 26, 2012, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of researching for networking, storage and digital media products and providing services for back office operations. The applicant had received funds towards share application money from foreign investors, namely, M/s Netgear International Limited, Ireland, and M/s Netgear Holding Limited, Ireland, as shown below:

Table -1

Sl. No	Date of receipt	Amount (INR)	Date of Reporting to RBI/AD
1	08-03-2013	2,99,99,990.00	17-05-2013
2	15-03-2013	10.00	17-05-213
	Total	3,00,00,000.00	

3. The applicant company allotted equity shares 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 Bank
1	09-08-2013	10,00,000	1,00,00,000.00	25-08-2017
2	09-08-2013	10,00,000	2,00,00,000.00	27-08-2017
	Total	20,00,000	3,00,00,000.00	

The applicant filed the 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 three years eleven months and seventeen days to three years eleven months and nineteen days, beyond the prescribed period of 30 days, in respect of the allotments as 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 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.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.2426/22.10.751/2018-19 dated January 24, 2019, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representative, Ms. Anjali Kulkarni, Manager, who appeared for the personal hearing on January 29, 2019, admitted the contravention as stated in Paragraph 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay 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 representative 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.

5. 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 provision issued in terms of:

(a) 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 persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of ₹3,00,00,000.00, and the period of delay ranges from three years eleven months and seventeen days to three years eleven months and nineteen days.



6. It has been declared in the compounding application dated November 26, 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 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 contravention which is 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.

7. 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 **₹4,10,000.00 (Rupees Four Lakh Ten Thousand only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 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 **₹4,10,000.00 (Rupees Four Lakh Ten Thousand 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 Twenty Ninth day of January, 2019.

Sd/-

(P J Thomas)
Regional Director, Karnataka and
Chief General Manager, Bengaluru