



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 23, 2019  
**C.A.868/2018**

In the matter of

**M/s. Sakthifinance Financial Services Ltd.**  
62, Dr. Nanjappa Road,  
Coimbatore-641 018

**(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 December 08, 2018 (received at Reserve Bank on December 11, 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 Reserve Bank and (iii) delay in allotment of shares in terms of Paragraph 9 (1) A,



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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 March 10, 1988 under the provisions of the Companies Act, 1956 (Registration No. U65921TZ1988PLC002130) and is engaged in business of Other financial service activities, except insurance and pension funding activities, n.e.c. The applicant received foreign inward remittance from Mr. Aram Ashok, United Kingdom towards subscription to equity shares and reported to Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	4,92,86,902.00	28.12.2006	13.04.2018

The applicant reported receipt of remittance to the Reserve Bank on dates indicated above with delay of 11 years two months 15 days approximately beyond the stipulated time of 30 days in respect of the remittance. 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-GPR as indicated below:

Sl. No	No. of shares/ CCDs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	985738	10	4,92,86,900.00	29.03.2014	12.06.2018

The applicant filed the form FC-GPR as indicated above with delay of four years one month 13 days approximately beyond the stipulated time of 30 days in respect of the allotment. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No.



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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 29.03.2014 against the remittance received on 28.12.2006 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	28.12.2006	4,92,86,900.00	29.03.2014

The company allotted shares with delay of six years four months approximately beyond the prescribed period of 180 days 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 September 12, 2018. The applicant has filed a compounding application dated December 08, 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 extant laws if the said declarations are subsequently discovered to be false and/or incorrect.



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6. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated January 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on January 23, 2019 during which Smt S Kumari, Senior Manager (Secretarial) of Sakthi Finance Ltd and Shri K Ramasubramanian, Consultant represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 to 4 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.

7. 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 ₹ 4,92,86,902.00 with duration of contravention being 11 years two 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 ₹ 4,92,86,900.00 with the duration of contravention being four years one month 13 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



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relates to an amount of ₹4,92,86,900.00 with the duration of contravention being six years four months 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 **₹12,90,565/-** (Rupees Twelve lakh ninety thousand five 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 **₹12,90,565/-** (Rupees Twelve lakh ninety thousand five 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 Twenty third day of January, 2019.

**Sd/-**

**Dr. K Balu**

**Chief General Manager**