



In the

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

Present

**Shri. K S Praveen**  
**Assistant General Manager**

Date: December 19, 2018  
**C.A. BGL 321/2018**

In the matter of

**M/s Turningpoint Software Solutions Private Limited**  
No.20, Park Area, 9<sup>th</sup> A Cross  
Wilson Garden  
Bengaluru 560027  
**(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 August 14, 2018, received at this office of Reserve Bank of India, Bengaluru, on August 14, 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 refund of excess share application money to the foreign investors, persons resident outside India, beyond 180 days from the date of receipt of the inward remittances in terms of Paragraph 8 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 Turningpoint Software Solutions Private Limited, was incorporated on October 07, 2003, 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 providing services in software development and business process outsourcing which includes health information technology, telecommunications life style management, infrastructure O & M services and PMO support services.

3. The company had received foreign inward remittances in November 2004 and January 2005, and the company had allotted equity shares to the foreign investors in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, after share allotment, there was excess share application money, which the company refunded to the foreign investors with a delay. Below mentioned are the instances where the company has refunded the excess share application money to the foreign investors beyond the stipulated period of 180 days with the approval of Reserve Bank of India:

- i) The company had received an inward remittance of ₹3,90,644.00, from the non-resident investors Mr. Bangalore S Shivacharan and Mrs. Anupama Shivacharan, USA, on January 17, 2005 . The company had allotted 30,000 equity shares worth ₹3,00,000.00, and the excess share application money of **₹90,644.00**, was refunded on November 06, 2014, to the non-resident investors.
- ii) The company had received an inward remittance of ₹4,02,574.00, from the non-resident investors Mr. David R Hughes and Mrs. Lorraine A Hughes, on November 17, 2004. The company had allotted 40,000 equity shares worth ₹4,00,000.00, and the excess share application money of **₹2,574.00**, was refunded on November 06, 2014, to the non-resident investors.



The company was accorded approval to refund the excess share application money of **₹93,218.00**, vide Reserve Bank's letter No.FE.BG.FID.No.3396 /21.09.020/2014-15 dated October 29, 2014. Whereas, in terms of Paragraph 8 of Schedule 1 to Notification no. FEMA 20/2000- RB dated May 3, 2000, and as amended from time to time, read with AP (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.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1733 /22.09.020/2018-19 dated December 11, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Vishvesh M R, Assistant General Manager (Finance & Administration), and Mr. Ganapathi, Practicing Company Secretary, who appeared for the personal hearing on December 19, 2018, admitted the contravention as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that, as the contraventions were not intentional or with a malafide intention and was mainly due to inadvertence, a lenient view may be taken 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 provisions issued in terms of:



(a) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB as the applicant refunded the excess share application money to the foreign investors with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in paragraph 3 above. The contravention relates to an amount of **₹93,218.00**, and the period of contravention is six years eleven months and eight days.

6. It has been declared in the compounding application dated August 14, 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 August 14, 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. 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 **₹64,716.00 (Rupees Sixty Four Thousand Seven Hundred and Sixteen only)** will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 8 of Schedule I 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 **₹64,716.00 (Rupees Sixty Four Thousand Seven Hundred and Sixteen only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> 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 Nineteenth day of December 2018.

**(K S Praveen)**  
**Assistant General Manager**