



In the

Reserve Bank of India
Foreign Exchange Department
5th Floor, Amar Building
Sir PM Road
Mumbai – 400001

Present

R. Seetharaman
Deputy General Manager

Date: December 12, 2017
CA NO: 4481/2017
In the matter of

Optiemus Infracom Limited
K-20, Lajpat Nagar-II, New Delhi-110024

(Applicant)

In exercise of powers conferred 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 2, 2017 (received in the Reserve Bank of India on August 8, 2017) for compounding the 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 relate to delay in receipt of share certificates for its investment made in Wholly Owned Subsidiary (WOS) at Jebel, Dubai in contravention of the provisions of Regulation 15(i) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 7, 2004, as amended from time to time (hereinafter referred to as Notification No FEMA 120-RB 2004).



2. The relevant facts of the case are follows: The applicant was incorporated as Optiemus Infracom Limited on June 17, 1993 with CIN NO: L6420DL1993PLC054086. The applicant is engaged in trading in mobile handsets and the accessories, call centre communication products. The applicant had a WOS, M/s. Optiemus Infracom International FZE, with its registered office at Jebel, Dubai with Jebel Ali Free Trade Zone Authority as a Free Zone Establishment (Limited Liability) on May 12, 2013. The applicant remitted USD 27500.00 (AED equivalent 1009250.00 and in INR 16533000.00) on July 11, 2013 and received share certificates for AED 100000.00 on May 15, 2013. The applicant further remitted USD 20,000.00 (equivalent AED 73,400.00 and INR- 1207200.00) on April 30, 2014 and remitted USD 2000.00 (AED equivalent 73400.00 and INR 1196800.00). The applicant received share certificate for AED 156050.00 on January 7, 2016. Thus there has been a delay in receipt of share certificate for AED 156050 (INR 2555528.61). The delay in receipt of share certificate was in contravention of the regulation 15(i) of FEMA 120-RB 2004. The WOS was liquidated on October 30, 2016 and the administrative actions were completed on August 2, 2017.

3.1 Regulation 15(i) of the said Notification requires that An Indian Party, which has acquired foreign security shall receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised;

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./4039/15.20.67/2017-18 dated November 7, 2017 for further submission in person and /or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on November 22, 2017. Shri. Jitendra Sampat, General Manager, Sales, Optiemus Infracom Limited represented the



applicant. The application is considered on the basis of the averments made and documents produced in the application.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 15(i), of FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows.

i) Regulation 15(i) of FEMA 120-RB 2004 as amended from time to time: The amount of contravention and period of contravention are furnished in the following table.

Date of remittance	Amount of remittance in AED	Amount of remittance in INR	Period of contravention
July 11, 2013	Out of AED 1009250.00, AED 9250.00	Out of INR 16533000.00, INR 151528.61	1 year ,11 months and 27 days
April 30, 2014	AED 73400.00	INR 1207200.00	1 year, 2 months and 8 days.
July 08, 2014	AED 73400.00	INR 1196800.00	11 months and 30 days. (1 year approx.).
Total	AED 156050.0	INR 2555528.61	

6. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, taking into account the relevant facts and circumstance 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 Rs.50000.00 (Rupees fifty thousand only) will meet the end of justice.



7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 15(i), of Notification No FEMA 120-RB 2004 of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant stated above on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs.50000.00 (Rupees fifty thousand only) which shall be deposited by the applicant with the Reserve Bank of India, 11th Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the 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 shall apply.

The application is disposed accordingly.

Dated this the twelfth day of December 2017.

Sd/-

(R. Seetharaman)

Deputy General Manager