



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri S .V. Potphode
Assistant General Manager

Date: January 8, 2018

C.A. No. 713/2017

In the matter of

M/s Icube Analytics And Data Services Private Limited
A-811, Pranik Chambers
Sakinaka Andheri (East)
Mumbai- 400 072
(Applicant)

In exercise of the powers conferred under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

1. The applicant has filed a compounding application dated August 14, 2017 (received at the Reserve Bank of India on August 23, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is for taking on record by the applicant, the transfer of shares by resident to non-resident without obtaining certified form FC-TRS, in contravention of Regulation 4 of Foreign Exchange Management (Transfer of issue of Security by a



Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/RB-2000 dated May 3, 2000 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 June 30, 2014 under the Companies Act, 2013. Its main activity is 1) to carry on the business of providing analytical services in India or elsewhere the business as consulting, designers, researchers, developers, manufacturers, buyers, assemblers, modifiers, installers, reconditioners, sellers, hirers, sublessors, market makers, dismentlers, repairers, operators, exporters, importers or otherwise to deal to aviation, aerospace and other similar industries. 2) To develop, provide, undertake, design, import, export, distribute and deal in systems, application software, data hosting, processing and analysis services to aviation, aerospace and other similar industries. To provide advance technology to any person, firm, company, trusts, association, institutions, society, body corporate, government department, public or local authority in India and outside India in the field of advance technology and related areas and/or to develop procedures, methods and principles for and engage in research relating thereto its aviation, aerospace and other similar industries.

3. The M/s Icube Analytics and Data services private limited has allotted 8,421 equity shares to M/s Think and Tell Enterprises, France and 10,526 equity shares to M/s Carcasses Alain, France on December 1, 2014 of Rs.10/- each. The Reserve Bank of India have duly acknowledged the issue on April 6, 2016. Shri Tejpal Mehta purchased these equity shares from them on October 10, 2015. The company reported in the form FC-TRS on July 25, 2017 with a corresponding delay of 1 year 7 months 16 days approximately. The transfer of shares was taken on record by the company on March 31, 2016 without obtaining duly acknowledged / certified form FC-TRS by the AD bank thereby contravening Regulation 4 of Notification No. FEMA 20/ RB-2000 dated May 3, 2000 as amended from time to time. FEMA Notification No. 20, ibid, regulates the transfer or issue of security by a person resident outside India and in terms of Regulation 4 of Notification No. FEMA 20/ 2000-RB read with A.P. (DIR Series) Circular No. 63 dated April 22, 2009, form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date



of receipt of the amount of consideration. Further, save as otherwise provided in the Act, Rules or Regulations made thereunder, an Indian entity shall not record in its books any transfer of security from or to such person provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary.

4. The applicant was given an opportunity for personal hearing vide email dated December 15, 2017 for further submission in person and/or producing documents, if any, in support of application. The personal hearing took place on December 15, 2017 during which Ms. Shraddha Panchamia, Consultant; an authorized representative, represented the applicant in the cabin of Shri S. V. Potphode, Assistant General Manager, Foreign Exchange Department, Mumbai Regional Office. The representatives of the applicant admitted the contravention committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that there was no mala fide intention by the applicant and the contravention was inadvertent. The representatives of the applicant requested that in view of the foregoing, 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 FEMA provisions issued in terms of Regulation 4 of Notification No. FEMA 20/2000-RB. The amount of contravention is Rs.1,89,470/- for a period of 1 year 7 months 16 days approximately.

6. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to 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 Rs.11670/-(Rupees Eleven Thousands Six Hundred Seventy only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 4 of 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 Rs.11670/-(Rupees Eleven Thousands Six Hundred Seventy only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 3rd Floor, Main Building, Fort, Mumbai – 400001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at “Mumbai” 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 Proceeding) Rules, 2000 dated May 3, 2000 shall apply.

8. The above order is passed only in respect of contravention of Regulation 4 of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: January 8, 2018

Sd/-

(S. V. Potphode)
Assistant General Manager