



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

C. Nageswara Rao
Deputy General Manager

Date: January 29, 2018
C.A. HYD 269

In the matter of

M/s. Pervacio India Private Limited
Sanali Info Park, 8-2-120/113
C Block, 2nd Floor
Road no. 2, Banjara Hills
Hyderabad-500033
Telangana

(Applicant)

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

Order

The applicant has filed the compounding application dated November 21, 2017 received on November 30, 2017 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances; (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity and (iii) neither the equity instruments were issued nor amount refunded to the foreign investor, a person resident outside India within 180 days from the date



receipt of foreign inward remittance in terms of Paragraph 9(1)(A), Paragraph 9(1)(B) and

Paragraph 8 respectively of Schedule 1 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 3rd May 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20 /2000-RB) as then applicable.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 12.08.2009 (CIN: U72200TG2009FTC064732). The company is engaged in the business of computer software programming.
- b) The applicant had received foreign inward remittances from two foreign investors towards advance for subscription to equity shares as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Sanjay Kanodia	520420	05.10.2009	24.03.2017
2	Sanjay Kanodia	520420	05.10.2009	24.03.2017
3	Pervacio Inc. USA	518772	23.12.2009	26.02.2010
4	Pervacio Inc. USA	518772	23.12.2009	26.02.2010
	Total	2078384		

The applicant received foreign inward remittances amounting to ₹ 20,78,384/- as indicated above and reported to Reserve Bank of India with delays ranging from 1 month 4 days to 7 year 4 months 17 days approximately beyond the prescribed period of 30 days. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 to



Compounding of contraventions under FEMA 1999
M/s Pervacio India Private Limited
CA No. HYD 269

Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to

Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

c) The company allotted shares and filed form FC-GPRs as indicated below:

Sl No	Name of investor	Date of allotment of shares	Number of shares/CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Sanjay Kanodia	30.12.2009	1	10	23.05.2017
2	Pervacio Inc. USA		49999	499990	
3	Pervacio Inc. USA	01.03.2010	50000	500000	02.11.2017
	Total		100000	1000000	

The applicant filed form FCGPRs for issue of shares amounting to ₹ 10,00,000/- as indicated above with delays ranging from 7 years 3 months 24 days to 7 years 7 months 2 days approximately beyond the stipulated period of 30 days. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank of India a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

e. The company has delayed in refund of excess share application money beyond the stipulated period of 180 days in respect of remittances



Compounding of contraventions under FEMA 1999
M/s Pervacio India Private Limited
CA No. HYD 269

aggregating to ₹ 10,78,384/- and the delay ranges from 6 years 11 months 2 days to 7 years 1 month 20 days approximately .

Sl No	Name of Remitter	Total Amount (INR)	Date of receipt	Excess share application money (INR)	Date of seeking RBI approval for refund	RBI approval letter and date
1	Sanjay Kanodia	1040840	05.10.2009	1040830	23.05.2017	HY.FE.FID /917/14.08.
2	Pervacio Inc. USA	1037544	23.12.2009	37554	23.05.2017	061/2017-18 dated 16.11.2017
	Total	2078384		1078384		

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB, 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. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1299/14.66.003/2017-18 dated January 22, 2018 for



further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on January 24, 2018 during which Ms. Seema Kanodia, Director-Operations & Finance and Ms. Anshu Gupta, Company Secretary represented the applicant. The authorized representatives of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was on account of lack of proper guidance and professional advice in the beginning. In view of the foregoing, the representative of the applicant 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 the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to ₹ 20,78,384/- and the delay ranges from 1 month 4 days to 7 years 4 months 17 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 10,00,000/- and the period of contravention ranges from 7 years 3 months 24 days to 7 years 7 months 2 days approximately.



(c) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB for delay in refund of excess share application money to the foreign investor and the contravention relates

to an amount of ₹ 10,78,384/- and the delay ranges from 6 years 11 months 2 days to 7 years 1 month 20 days approximately.

5. It has been declared in the compounding application dated November 21, 2017 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated November 21, 2017 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. 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.

6. 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 **Rs. 1,14,642/- (Rupees One Lakh Fourteen Thousand Six Hundred Forty Two Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 8 of Schedule 1 to



Compounding of contraventions under FEMA 1999
M/s Pervacio India Private Limited
CA No. HYD 269

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. 1,14,642/- (Rupees One Lakh Fourteen Thousand Six Hundred Forty Two Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 29th day of January 2018

Sd/-

(C. Nageswara Rao)
Deputy General Manager