



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

P Ramesh
Assistant General Manager

Date : February 21, 2018
C.A.753/2017

In the matter of

M/s. Syncfusion Software Pvt Ltd.,
W-721, 4th Street, Anna Nagar,
Western Extension,
Chennai- 600 101

(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 27, 2017 (received at Reserve Bank on December 28, 2017) 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 inward remittance in terms of Paragraph 8 of Schedule I to Foreign



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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 then applicable (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 06, 2005 under the provisions of the Companies Act, 1956 (Registration No. U72200TN2005PTC056528) and is engaged in business of retail sale of non-customized software. The applicant received an foreign inward remittance amounting to ₹ 10,95,040/- from M/s Syncfusion Inc., USA on 02.09.2005 towards subscription to equity shares and reported the same to the Reserve Bank within the prescribed period. Against the remittance, the company allotted 9000 shares of ₹100/- each on 21.11.2005 amounting to ₹ 9,00,000/- and filed the FC-GPR with Reserve Bank within the prescribed period.

3. The company refunded the excess inward remittances remaining after allotment of shares as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of refund
1	02.09.2005	1,95,040.00	17.01.2018

The company refunded the amount as indicated above with delay of 10 years one month 18 days approximately beyond the stipulated time of 180 days with 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.

4. The applicant vide letter dated December 27, 2017 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. The application for



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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.

5. It has been declared in the compounding application dated December 27, 2017 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 December 27, 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/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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 1,95,040/- with the duration of contravention being 10 years one month 18 days approximately.

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 contraventions are to be compounded and I consider that an amount



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of ₹ 47,195/- (Rupees forty seven thousand one hundred and ninety five only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 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 ₹ 47,195/- (Rupees forty seven thousand one hundred and ninety 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 first day of February, 2018.

Sd/-

P Ramesh
Assistant General Manager