



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

G. P. Borah
Chief General Manager

Date: February 16, 2018

C.A. No. 724/2017

In the matter of

ATC Telecom Infrastructure Private Limited
403, 4th Floor, Skyline Icon
Andheri Kurla Road, Andheri East
Mumbai, Maharashtra - 400 059

(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 the compounding application dated September 7, 2017 (received at the Reserve Bank of India on October 3, 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 remittance towards subscription to equity and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India in terms of paragraphs 9 (1) (A) and 9 (1) (B) 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 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 March 22, 2004 under the Companies Act, 1956 as M/s Tata Tele Info Limited, thereafter name was changed as M/s Wireless-TT Info Services Limited, on March 31, 2005. The name was again changed to M/s Viom Networks Limited on August 10, 2010. Finally, name was again changed to M/s ATC Telecom Infrastructure Limited on May 25, 2016. Its main activities are to undertake either by itself or through one or more companies, to plan, establish, develop, provide, operate, manage, maintain, deal, supply, take on lease, give on lease, hire or let on hire, hire purchase, conditional sale or otherwise provide or dispose off and to carry on the business of running (whether under license or otherwise) or investment in telecommunication infrastructure, telecommunication systems, telecommunication networks and telecommunication services of all kinds, within India as well as outside India, including but not limited to telephony, telex, wireless, data communication, telematics and other like forms of communication, transmission, emission or receptions through agency of electricity or electromagnetism, light or otherwise or signs, signals, writing, images, sound or intelligence of any nature by wire, radio, optical or other electromagnetic systems whether or not such signs, signals, writing, images sound or intelligence have been subject to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception and of all kinds and to carry on all or any of the businesses of building, developing, maintain, supplying, operating, managing and dealing in services, facilities and infrastructures for communications of all kinds, within India as well as outside India, such as telephony, data transmission, information technology and video services and facilities which incorporate, use, or are used in conjunction with or in connection with or ancillary to telecommunications systems or telecommunication apparatus and equipment and to plan, establish, develop, provide, operate, buy, sell, deal in, take on lease, give on lease, hire, let on hire,



franchise and maintain all types of telecommunication services including, telephone exchanges, telegraph offices, coaxial stations, microwave stations, landing stations, repeater stations, telecommunications lines, cables, submarine cables, subsea cables, dark fiber, right of way, duct space, towers, bandwidth, or any other equipment, plant, machinery connected with or used for design, development, construction, maintenance or operation of telecommunications services and conveniences, within India as well as outside India, which may seem calculated directly or indirectly to advance the interests of the company and to subsidize, contribute to or otherwise assist or take part in doing any of these things, and/or to join or partner any other person and/or company and/or acquire any other company, body corporate or collaborate with any organization or company or with any Governmental authority in doing any of these things.

3. The applicant received foreign inward remittances from AMP Capital Asian Giants Infrastructure Fund, Mauritius on October 30, 2009, amounting to Rs. 15,00,00,131/- (Rupees Fifteen Crore One Hundred Thirty One Only) towards equity / preference share capital and reported the same to the Reserve Bank of India on October 23, 2015. The applicant reported receipt of remittances to the Reserve Bank of India with a delay of 5 years 10 months 24 days approximately. Whereas in terms of paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report foreign inward remittances to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPR as indicated below:

No	No of Shares	FV in Rs.	Premium in Rs.	Amount in Rs.	Date of allotment	Date of reporting
1	8,70,929	10.00	162.23	15,00,00,101.67	28-11-2009	23-10-2015
2	66656972	10.00	-	66,65,69,720.00	17-08-2010	25-01-2011
		Total		81,65,69,821.67		



The applicant filed form FC-GPR as indicated above with a delay ranging from 4 months 9 days to 5 years 09 months 26 days approximately, at serial No. 1 and 2 above. 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 a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

5. The applicant was given an opportunity for personal hearing vide e-mail dated February 8, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on February 9, 2018 during which Ms Geeta Puri Seth, Company Secretary, Mr Siddharth Banwat, Partner, T. P. Oswal & Associates LLP and Mr Anuj Jain, Associate, T. P. Oswal & Associates LLP represented the applicant. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

6. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. 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 due to the delay in reporting of receipt of foreign inward remittances towards subscription to equity as detailed in paragraph no. 3 above. The contravention relates to an amount of Rs.15,00,00,131/- (Rupees Fifteen Crore One Hundred Thirty One Only) and the delay ranging from 5 years 10 months 24 days approximately.



(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.81,65,69,821.67 (Rupees Eighty One Crore Sixty Five Lakh Sixty Nine Thousand Eight hundred Twenty One and Sixty Seven paisa only) and the delay ranging from 4 months 9 days to 5 years 09 months 26 days approximately.

7. It has been declared in the compounding application dated September 7, 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 February 8, 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/him/her 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 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.

8. 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 of Rs.12,37,000/- (Rupees Twelve Lakh Thirty Seven Thousand only) will meet the ends of justice.



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9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) (A) and 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.12,37,000/- (Rupees Twelve Lakh Thirty Seven Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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 Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

10. The above order is passed only in respect of contraventions of para 9 (1) (A) and 9 (1) (B) 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: February 16, 2018.

Compounding Authority

Sd/-

(G. P. Borah)

Chief General Manager