



In the

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

Present

P Kalyan Chakravarthy  
Assistant General Manager

Date: March 14, 2018  
C.A. HYD 277

In the matter of

M/s. Mimics East Technologies Private Ltd  
#101, Vishal Villis, Methodist Colony  
Begumpet, Hyderabad-500016

**(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 January 18, 2018 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 the Reserve Bank of India after issue of shares towards subscription to equity to a person resident outside India; (iii) Allotment of shares prior to receipt of share application money towards subscription to Memorandum of Association and delay in refund of balance share application money to the foreign investor beyond the stipulated period of 180 days, in terms of Paragraph 9(1)(A), Paragraph 9(1)(B) and Paragraph 8 respectively of



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Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 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 (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 company incorporated as a Private Limited Company under the Companies Act, 1956 on 04.02.2005 (CIN: U74200TG2005PTC045265) The company is engaged in the business of software programming, consultancy and related services.
- b) The applicant had received foreign inward remittances from two foreign investors as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Mimics Inc	643015.72	15-03-2016	12-04-2016
2.	Mimics Inc	66288.98	10-03-2016	12-04-2016
3.	Mimics Inc	26036.82	30-03-2016	12-04-2016
4	Richard P Wildgrube	53787.62	21-12-2016	19.01.2017
	<b>Total</b>	<b>7,89,129.14</b>		

The applicant reported receipt of foreign inward remittances towards share subscription amounting to **Rs.7,89,129.14/-** to the Reserve Bank of India as indicated above out of which one remittance of **Rs.66,288.98/-** was reported with a delay of 3 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



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convertible debentures in accordance with these Regulations should report 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.

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

SI No	Name of investor	Date of allotment of shares	Number of shares/ CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Richard Paul Wildgrube	28-03-2005	5000	50000	01.06.2017
2.	Mimics Inc	18-04-2016	10500	714000	18-05-2016
	<b>Total</b>		<b>15,500</b>	<b>7,64,000</b>	

The applicant filed form FCGPRs for the allotment of shares amounting to **Rs. 7,64,000/-** is indicated above out of which shares amounting to **Rs.50,000/-** were reported with a delay of 12 years 1 month 4 days approximately beyond the prescribed limit. 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 the documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.

c. (i) The Company refunded the excess share application money to the non-resident investor beyond the stipulated period of 180 days as indicated below:



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Sl No	Name of Remitter	Total Amount (INR)	Excess	Date of Receipt	Date of Refund	Date of application for RBI approval for refund
1.	Richard Paul Wildgrube	53787.62	3787.62	21.12.2016	21.09.2017	NIL
	<b>Total</b>		<b>3,787.62</b>			

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 20/2000-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 13<sup>th</sup> November, 2007 in the official Gazette of the Govt. of India. Here the amount of contravention is **Rs. 3,787.62/-** and the period of contravention is 3 months 1 day approximately.

- (ii) The applicant allotted shares towards subscription to Memorandum of Association , the amount of consideration was received with a delay beyond the stipulated period as indicated below:



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S.No	Name of Remitter	Date of Allotment	Amount (INR)	Date of Receipt of funds
1	Richard Paul Wildgrube	28-03-2005	50000	21-12-2016
	<b>Total</b>		<b>50,000</b>	

The applicant received the inward remittance after the allotment of shares with a delay of 11 years 6 months 23 days approximately beyond the prescribed time limit in contravention of Paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000-RB dated May 03, 2000 as amended from time to time.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/1550/14.66.003/2017-18 dated March 08, 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 March 12, 2018 during which Shri Ashok Kumar, Compliance Manager, and Shri G.Hanumanth Rao, Senior Project Manager, 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 delay in getting inward remittance in foreign currency through proper banking channel as it was originally paid in Indian currency which was not permitted under FEMA. 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.



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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 Rs.66,288.98/- and the period of contravention is 3 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 after issue of shares to person resident outside India and the contravention relates to an amount of Rs.50,000/- and the period of contravention is 12 years 1 months 4 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. 20/2000-RB for delay in:

- (i) refund of balance share application money after the issue of shares to the person resident outside India amounting to Rs.3787.62/- and the period of contravention is 3 months 1 day approximately.
- (ii) receipt of consideration after allotment of shares towards subscription to Memorandum of Association to a person resident outside India and the contravention relates to an amount of Rs.50,000/- and the period of contravention is 11 years 6 months 23 days.

5. It has been declared in the compounding application dated January 18, 2018 filed by the company, 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 18.01.2018 furnished with the compounding application that the applicant was not under any investigation by any agency as on the date of the



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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 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.52,976/- (Rupees Fifty Two Thousand Nine Hundred Seventy Six 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 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.52,976/- (Rupees Fifty Two Thousand Nine Hundred Seventy Six 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.



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The application is disposed accordingly.

Dated this 14th day of March 2018

Sd/-

(P Kalyan Chakravarthy)  
Assistant General Manager