



In the

RESERVE BANK OF INDIA  
Foreign Exchange Department  
Central Vista, Sector 17, P.B.No.2  
Chandigarh-160017

Present

**Sh. Nirmal Chand**  
**Regional Director**

**Date: March 01, 2018**  
CA No CHA 18/2018

In the matter of

**Damcosoft Pvt. Ltd.**  
Site 13 A, Rajiv Gandhi IT Park  
Chandigarh - 160101

**(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 there under, I pass the following

**Order**

The applicant has filed a compounding application dated February 12, 2018 (received at the Reserve Bank on February 12, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (The FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) delay in reporting of inward remittance against issue of equity shares(ii) delay in submission of FC-GPR to the Reserve Bank after issue of shares (iii) delay in application for refund of excess amount (iv) delay in allotment of shares beyond prescribed 180 days from the date of receipt of inflows (v) receipt of inflow without prior Government approval and (vi) delay in reporting of transfer of shares which are in contravention of Para 9(1) (A), Para 9(1) (B), Para 8, Paragraph 3(e) of FEMA 20/2000 and Regulation 10A (b) (i) read with Paragraph 10 of schedule I to Foreign Exchange Management (Transfer or issue of Security by a person Resident Outside India)



Regulation, 2000 notified vide Notification No. 20/2000RB dated May 3, 2000 and 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, Damcosoft Pvt. Ltd. is a private Limited company incorporated on September 09, 2008 under the Companies Act 2013. The applicant is engaged in the business of Technology enabled services, IT research, development, training & implementation, customer support services etc.

3. The applicant company received foreign inward remittances towards investment in equity shares from non-residents as under:

S. No	Date of inflow	Amount	Date of reporting to RBI	Delay beyond 30 days
1	25.09.2008	315262.50	22.05.2015	2400
2	12.05.2009	2994994.00	23.12.2014	2021
3	15.05.2009	3367087.00	23.12.2014	2018
4	15.05.2009	2616068.00	23.12.2014	2018
5	19.05.2009	1824130.00	23.12.2014	2014
6	23.11.2009	1152122.00	23.12.2014	1826
7	24.12.2009	742219.00	23.12.2014	1795
8	23.08.2011	3752375.00	23.12.2014	1188
9	05.01.2012	3279300.00	23.12.2014	1053
10	16.01.2012	788185.00	23.12.2014	1042
11	20.01.2012	3882500.00	23.12.2014	1038
12	23.02.2012	3851125.00	23.12.2014	1004
13	30.03.2012	4055375.00	23.12.2014	968
14	16.05.2012	4322000.00	23.12.2014	921
15	19.07.2012	4310500.00	23.12.2014	857
16	03.12.2012	4373375.00	23.12.2014	720
17	27.06.2013	4619625.00	23.12.2014	514
18	10.07.2013	4464375.00	23.12.2014	501
19	07.08.2013	4685125.00	23.12.2014	473
20	13.09.2013	4991125.00	23.12.2014	436
21	26.11.2013	5035250.00	23.12.2014	362
22	04.03.2014	8757975.00	23.12.2014	264



23	22.04.2014	5102375.00	23.12.2014	215
24	21.05.2014	4934250.00	23.12.2014	186
25	25.09.2014	4966016.00	23.12.2014	59

The above remittance was not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittances to Reserve Bank of India **with delay ranging from 59 days to 2400 days**, in contravention of Para 9(1) (A) of Schedule 1 to Notification No.FEMA 20/2000RB dated May 3, 2000, in terms of which an

Indian company issuing shares 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.

4. Against the above remittances the applicant company issued shares and reported the same to RBI as under:

S. No	Date of inflow	Amount	Total Inflow for share allotment	Shares issued on	Share Amount	Date of reporting to RBI	Delay (in days)
1	25.09.2008	315262.50	315262.50	06.10.2008	300000.00	25.01.2016	<b>2637</b>
2	23.08.2011	3752375.00	32614735+1514260 = 34128995	30.03.2013	30000000.00	06.08.2013	<b>99</b>
3	05.01.2012	3279300.00					
4	16.01.2012	788185.00					
5	20.01.2012	3882500.00					
6	23.02.2012	3851125.00					
7	30.03.2012	4055375.00					
8	15.05.2012	4322000.00					
9	19.07.2012	4310500.00					
10	03.12.2012	4373375.00					
11	27.06.2013	4619625.00					
12	10.07.2013	4464375.00					
13	07.08.2013	4685125.00					
14	13.09.2013	4991125.00					
15	26.11.2013	5035250.00					



16	04.03.2014	8757975.00	18794600+4244 95= 19219095	23.05.14	19200000.00	25.09.2014	<b>95</b>
17	22.04.2014	5102375.00					
18	21.05.2014	4934250.00					

The applicant reported the allotment of shares to Reserve Bank with delay ranging **from 95 to 2637 days**. The delay in reporting to Reserve Bank of India in form FCGPR, beyond the prescribed period in respect of allotment of the above shares is in contravention of paragraph 9(1) (B) of Schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000, in terms of which 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 a person resident outside India.

5. The applicant company issued shares and applied for permission to refund of excess amount as under –

S. N	Date of first inflow involved	Excess amount (for Refund)	Date of application for permission to refund	Delay (in days)
1	21.11.2016	29,520.00	05.02.2018	<b>261 days</b>

The applicant allotted the shares and applied for permission to refund the excess amount with **delay of 261 days**. The delay in applying for refund of excess amount, beyond the prescribed period is in contravention of paragraph 8 of Schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000, in terms of which an Indian company in accordance with these regulations has to issue the shares and/ or refund the excess amount within 180 days from the date of receipt of the amount of consideration.

6. The applicant company issued the shares to foreign investors against the excess amount received beyond stipulated 180 days from the date of receipt of the amount of contravention as under:-

S. No	Date of first Inflow Involved	Balance Amount Carried Forward	Shares issued on	Delay (in days)
1	25.09.2008	15262.50	18.02.2010	<b>331</b>



2	12.05.2009	1514260.00	30.03.2013	<b>1238</b>
3	23.08.2011	4128995.00	20.12.2013	<b>670</b>
4	27.06.2013	424495.00	23.05.2014	<b>150</b>
5	04.03.2014	19095.00	25.11.14	<b>86</b>
6	12.05.2009	2994994.00	18.02.2010	<b>102</b>
7	15.05.2009	3367087.00		<b>99</b>
8	15.05.2009	2616068.00		<b>99</b>
9	19.05.2009	1824130.00		<b>95</b>
10	23.08.2011	3752375.00	30.03.2013	<b>405</b>
11	05.01.2012	3279300.00		<b>270</b>
12	16.01.2012	788185.00		<b>259</b>
13	20.01.2012	3882500.00		<b>255</b>
14	23.02.2012	3851125.00		<b>221</b>
15	30.03.2012	4055375.00		<b>185</b>
16	15.05.2012	4322000.00		<b>139</b>
17	19.07.2012	4310500.00		<b>74</b>

The applicant allotted the shares to foreign investors with delay ranging from **74 to 1238 days**. The delay in allotment of shares, beyond the prescribed period is in contravention of paragraph 8 of Schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000, in terms of which an Indian company in accordance with these regulations has to issue the shares and/ or refund the excess amount within 180 days from the date of receipt of the amount of consideration.

7. The applicant received foreign investment without Government approval and refunded the same with delay as under:-

S.No	Inflow Date	Inflow Amount	Unwinding Date	Delay (in days)
1	06.05.2008	3372924	16.11.2016	<b>3116</b>

There was delay of 3116 days in unwinding of the said inflow amount which is the contravention of **Para 3(e) of Schedule I to FEMA 20/2000-RB dated May 3, 2000**.

8. The applicant filed FCTRS for transfer of shares with delay beyond the stipulated period of 60 days as under:-



S. No	Date of Transfer of Shares	Shares Transferred	Amount	Reporting Date	Delay (in days)
1	06.10.2008	1000	10,000	09.10.2017	3230

As mentioned above, there was delay of 3230 in submission of Form FC-TRS from the date of transfer of shares. This is in contravention of Regulation 10A (b) (i) read with paragraph 10 of Schedule I to FEMA 20/2000-RB dated May 3, 2000, in terms of which an Indian company in accordance with these regulations has to submit to Reserve Bank of India a report in Form FCTRS along with documents prescribed therein within 60 days from the date of transfer of shares.

9. The applicant was given an opportunity for personal hearing vide letter No.CHD.FE.CG/FID/729/03.01.237/2017-18 dated February 20, 2018 for submission in person and/or producing documents, if any, in support of the application. Smt. Archana Gupta , CFO and Shri Aman Arora, Sr. Manager- Finance and Accounts of the company appeared for the personal hearing on March 01,2018. During the personal hearing, the representatives of the applicant admitted the contraventions committed by them for which they have sought compounding. The representative submitted that the contraventions were due to lack of awareness of the procedural requirements and were not intentional and have requested for taking a lenient view in the matter. The application is, therefore, being considered on the basis of the averments made in the application, and documents produced.

10. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

- a. Paragraph 9 (1) (A) of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of foreign inward remittance towards subscription to equity as detailed in paragraph 3 above. The contravention relates to an amount of **Rs 9,31,82,733.50 with delay ranging from 59 days to 2400 days**



- b. Paragraph 9 (1) (B) of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FCGPR to Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The contravention relates to an amount of **Rs 8, 15,87,848.00 with delay ranging from 95 to 2637 days.**
- c. Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in application for permission to refund the excess amount as detailed in paragraph 5 above. The contravention relates to an amount of **Rs 29,520.00 with delay of 261 days.**
- d. Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in issue of shares as detailed in paragraph 6 above. The contravention relates to an amount of **Rs 4,51,45,747.00 with delay ranging from 74 to 1238 days.**
- e. Para 3(e) of Schedule I to FEMA 20/2000-RB dated May 3, 2000 due to receipt of foreign investment without Government approval and application for permission to refund the amount as per detailed in paragraph 7 above. The contravention relates to an amount of **Rs 33,72,924.00 with delay of 3116 days.**
- f. Regulation 10A (b) (i) read with Paragraph 10 of schedule I to FEMA 20 due to delay in submission of Form FCTRS to Reserve Bank after transfer of shares detailed in paragraph 8 above. The contravention relates to an amount of **Rs 10,000.00 with delay of 3230 days.**

11. In terms of Section 13 of 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. 6, 21,529.00 (Six lakh Twenty One Thousand Five hundred twenty Nine only)** will meet the ends of justice.

12. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contraventions committed by the applicant namely, Para 9(1) (A), Para 9(1) (B) a, Para 8, Paragraph 3(e) of FEMA 20/2000 and Regulation 10A (b) (i) read with Paragraph 10 of schedule I to Foreign Exchange Management (Transfer or issue of Security by a person Resident Outside India) Regulation,2000 notified vide Notification No. 20/2000RB dated May 3, 2000 read with AP(Dir Series) Circular No 73 dated June 8, 2007 on the facts discussed above, on payment of an amount of **Rs. 6,21,529.00 (Six lakh Twenty One Thousand Five hundred twenty Nine only)** which shall be deposited by the applicant with the Reserve Bank of India ,Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at “Chandigarh” **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 the 01<sup>st</sup> day of March 2018.

Sd/-

Nirmal Chand  
Regional Director