



In the

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

Present

C. Nageswara Rao
Deputy General Manager

Date: April 09, 2018
C.A. HYD 274

In the matter of

M/s. ITS Technodue India Private Limited
A2, Girishikara Apartment
6-3-600/3, Hilltop Colony
Erramanzil
Hyderabad-500082
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 December 19, 2017 received on December 26, 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 05.07.2005 (CIN: U25209AP2005PTC046748). The company is engaged in the business of manufacturing semi-finished products of plastics and pipe fittings.
- b) The applicant had received foreign inward remittances from the 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 to AD bank
1	Bordin Caludio	718518.00	23.03.2007	23.04.2007
2	Pantano Egle	709809.00	28.03.2007	23.04.2007
3	Gattorna Giuseppe	704878.00	09.04.2007	23.04.2007
4	Bruzzone Giampiero	704878.00	09.04.2007	23.04.2007
	Total	28,38,083		

The applicant received foreign inward remittances amounting to **Rs. 28,38,083/-** and reported to Reserve Bank of India as indicated above out of which one remittance of **Rs. 7,18,518/-** was reported with a delay of 1 day approximately beyond the prescribed period of 30 days. 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 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 shares and filed form FC-GPRs as indicated below:

SI No	Name of investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	Bordin Claudio	26.04.2010	70000	700000	11.06.2010
2	Pantano Egle		70000	700000	
3	Gattorna Giuseppe		70000	700000	
4	Bruzzone Giampiero		70000	700000	
		Total	280000	28,00,000	

The applicant filed form FCGPRs for issue of shares amounting to **Rs. 28,00,000/-** as indicated above with a delay of 16 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 allotment of shares to the foreign investors beyond the stipulated period of 180 days in respect of remittances aggregating to **Rs. 28,00,000/-** and the period of contravention is 2 years 4 months 28 days approximately .



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SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of allotment
1	Bordin Caludio	700000	23.03.2007	26.04.2010
2	Pantano Egle	700000	28.03.2007	
3	Gattorna Giuseppe	700000	09.04.2007	
4	Bruzzone Giampiero	700000	09.04.2007	
	Total	28,00,000		

* Delay is calculated w.e.f November 29, 2007 in terms of A.P (DIR Series) Circular No. 20 dated December 14, 2007

f. The company has delayed in refund of excess share application money beyond the stipulated period of 180 days in respect of remittances aggregating to Rs. 38,083/- and the period of contravention is 9 years 5 months 13 days approximately.

SI No	Name of investor	Total amount (INR)	Date of receipt	Excess share application money (INR)	Date of seeking RBI approval
1	Bordin Claudio	718518	23.03.2007	18518	12.05.2017
2	Pantano Egle	709809	28.03.2007	9809	
3	Gattorna Giuseppe	704878	09.04.2007	4878	
4	Bruzzone Giampiero	704878	09.04.2007	4878	
	Total	2838083		38083	

* Delay is calculated w.e.f November 29, 2007 in terms of A.P (DIR Series) Circular No. 20 dated December 14, 2007



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/1702/14.66.003/2017-18 dated April 03, 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 April 06, 2018 during which Shri. M V Bhushanam, Director represented the applicant. The authorized representative 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 Rs. 7,18,518/- and the delay is 1 day 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 Rs. 28,00,000/- and the period of contravention is 16 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB for delay in allotment of shares to the foreign investors and the contravention relates to an amount of Rs.28,00,000/- and the period of contravention is 2 years 4 months 28 days approximately.

(d) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB for delay in refund of excess share application money to the foreign investors and the contravention relates to an amount of ₹ 38,083/- and the period of contravention is 9 years 5 months 13 days approximately.

5. It has been declared in the compounding application dated December 19, 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 February 09, 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 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. 72,328/- (Rupees Seventy Two Thousand Three Hundred Twenty Eight 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. 72,328/- (Rupees Seventy Two Thousand Three Hundred Twenty Eight 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 09th day of April 2018

Sd/-



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(C. Nageswara Rao)
Deputy General Manager