



In the

**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Gopal B Terdal**  
**Assistant General Manager**

Date: May 14, 2018  
**C.A. BGL 286/2018**

In the matter of

**M/s Advisual Technology India Private Limited**  
No.101, 1<sup>st</sup> Floor, Embassy Classic  
No.11, Vittalmallya Road  
Bengaluru 560001  
**(Applicant)**

In exercise of the powers under Section 15 (1) of the Foreign Exchange Management Act, 1999, and the Regulations/Rules/Notifications/Orders framed there under, I pass the following

**ORDER**

The applicant has filed a compounding application dated February 01, 2018, received at this office of Reserve Bank of India, Bengaluru, on February 01, 2018, 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 share application money to the foreign investors, persons resident outside India, beyond 180 days from the date of receipt of the inward remittances in terms of paragraph 8 of Schedule I 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 03, 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, M/s Advisual Technology India Private Limited, was incorporated on September 03, 2012. The company is engaged in the business of IT and IT enabled services.

3. The company had received inward remittance of Rs.4,00,000.00, on November 29, 2012, from the non-resident investor, Mr. Rashed A Wahab Ibrahi, Galadari, Dubai. The entire share application money of **Rs.4,00,000.00**, was refunded to the investor with a delay beyond stipulated period, on October 25, 2016, with prior approval from the Reserve Bank of India. The company was given the approval to refund the share application money of Rs.4,00,000.00, vide Reserve Bank's letter FE.BG.FID.No.1230/21.09.186/ 2016-17 dated August 30, 2016. Whereas, in terms of paragraph 8 of Schedule 1 to Notification No.FEMA20/2000-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. Further, in terms of paragraph 5 of A.P. (DIR Series) Circular No.20 dated December 14, 2007, in all cases where, as on November 28, 2007, 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of Reserve Bank through their AD Category – I bank with a definite action plan either for allotment of equity instruments or for refund of the advance, with full details, for specific approval.

4. The applicant was given an opportunity for personal hearing, vide the Reserve Bank's letter FE.BG.FID (CEFA) No.4061/22.09.186/2017-18 dated April 27, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representative, Ms. Nikita Hemmige, Associate, Induslaw, who appeared for the personal hearing on May 02, 2018, admitted the contraventions as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. The



representative of the applicant requested that as the contraventions were not intentional or with a malafide intention and was mainly due to inadvertence, a lenient view may be taken 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 as other documents and submissions made in this context, by the applicant during personal hearing and thereafter.

5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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 as the applicant refunded the share application money to the non-resident investor with a delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.4,00,000.00** and the period of contravention is three years, four months and twenty seven days approximately .

6. It has been declared in the compounding application dated February 01, 2018, 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 01, 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. 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.

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 contravention are to be compounded and I consider that an amount of **Rs. 31,800.00 (Rupees Thirty One Thousand and Eight Hundred only)** will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contravention of Paragraph 8 of Schedule I 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. 31,800.00 (Rupees Thirty One Thousand and Eight Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru - 560001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Bengaluru 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 Fourteenth day of May 2018.

Sd/-

**(Gopal B Terdal)**  
**Assistant General Manager**