



In the

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

Present

Ms. M Rama Kumari
Deputy General Manager

Date: July 12, 2018
C.A. BGL 297/2018

In the matter of

M/s Cricket Semiconductor Private Limited
#102 Eden Park, Vittal Mallya 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 May 02, 2018, received at this office of Reserve Bank of India, Bengaluru on May 22, 2018, and addendum to the application, dated July 09, 2018, received on July 10, 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 are, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in refund of excess share application money/allotment of shares prior to the receipt of inward remittances, and (iii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A), 8 and 9(1)(B), respectively, 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 Cricket Semiconductor Private Limited, was incorporated on April 24, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of manufacturing of integrated circuits (analog, digital or hybrid). The applicant had received funds towards share application money from the foreign investors, namely, Mr. Mark G Harward, USA, Mr. Louis N Hutter, USA, and Mr. Abid Husain, Singapore, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	05-09-2015	90,000.00	06-10-2015
2	23-12-2016	5,49,507.00	17-07-2017
3	19-01-2017	3,42,098.14	10-02-2017
4	08-03-2017	1,75,718.40	06-04-2017
	Total	11,57,323.54	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from one day to five months and twenty five days, beyond the stipulated period of 30 days, in respect of remittances as indicated at serial numbers 1 and 2 in the Table-1 above. Whereas, in terms of paragraph 9(1)(A) of Schedule I 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.

3. The company had allotted equity shares to the foreign investors, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, in the instances mentioned here below, the company had



allotted shares prior to the receipt of inward remittances/refunded excess share application money beyond 180 days from the date of receipt of inward remittance, with prior approval of Reserve Bank of India.

(i) The company had allotted 90,000 equity shares worth Rs. 90,000.00, to the foreign investor Mr. Mark G Harward, USA, towards MOA, on April 24, 2015. However, the inward remittance of Rs. 90,000.00, pertaining to the aforesaid allotment was received on September 05, 2015, post allotment of shares. The amount of contravention is Rs. 90,000.00, and the period of delay is 4 months 12 days;

(ii) The company had received an inward remittance of Rs.5,49,507.00, from the foreign investor Mr. Louis N Hutter, USA, on December 23, 2016, and allotted 546007 equity shares worth Rs.5,46,007.00. The excess share application money of Rs.3500.00, was refunded to the non-resident investor on March 08, 2018, with prior approval of Reserve Bank of India. The amount of contravention is Rs.3,500.00, and the period of delay is 8 months and 15 days;

(iii) The company had received an inward remittance of Rs.3,42,098.14, from the foreign investor Mr. Mark G Harward, USA, on January 19, 2017, and allotted 3,38,403 equity shares worth Rs.3,38,403.00. The excess share application money of Rs.3,695.14, was refunded to the non-resident investor on February 17, 2018, with prior approval of Reserve Bank of India. The amount of contravention is Rs.3,695.14, and the period of delay is 7 months; and

(iv) The company had received an inward remittance of Rs.1,75,718.40, from the foreign investor Mr. Abid Husain, Singapore, on March 08, 2017, and allotted 1,75,337 equity shares worth Rs.1,75,337.00. The excess share application money of Rs.381.40, was refunded to the non-resident investor on February 17, 2018, with prior approval of Reserve Bank of India. The amount of contravention is Rs.381.40 , and the period of delay is 5 months and 13 days.



The company was given approval to refund the total excess share application money of Rs.7,576.54, to the non-resident investors, vide Reserve Bank's letter FE.BG.FID.No.3012/ 21.09.629/2017-18 dated February 08, 2018. Whereas, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB, dated May 3, 2000, read with A.P. (DIR Series) Circular No. 20 dated December 14, 2007, an Indian company is allowed to receive the amount of consideration in advance from the non-resident investor, and within 180 days of receipt of the same, the shares have to be issued / the excess amount need to be refunded

4. The applicant company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	24-04-2015	90,000.00	13-11-2015
2	06-06-2017	10,59,747.00	21-08-2017
	Total	11,49,747.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one month and fifteen days to five months and twenty days, beyond the prescribed period of 30 days, in respect of the allotments indicated in Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 07/22.09.629/2018-19 dated July 03, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. K Divakara



Babu, Accounts Manager, and Ms. Sandhya, Consultant, who appeared for the personal hearing on July 11, 2018, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they 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 as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

6. 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 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs.6,39,507.00**, and the period of delay ranges from one day to five months and twenty five days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to allotment of shares prior to receipt of inward remittances, and refund of excess share application money beyond 180 days from the date of receipt of inward remittances, with prior approval from Reserve Bank of India as detailed in paragraph 3 above. The total amount of contravention is **Rs.97,576.54**, and the period of delay ranges from four months and twelve days to eight months and fifteen days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the 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.11,49,747.00**, and the



period of delay ranges from one month and fifteen days to five months and twenty days.

7. It has been declared in the compounding application dated May 02, 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 undertaking dated May 02, 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.

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.25,300.00 (Rupees Twenty Five Thousand and Three Hundred only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) 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.25,300.00 (Rupees Twenty Five Thousand and Three Hundred only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd 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 Twelfth day of July, 2018.

Sd/-

(M Rama Kumari)
Deputy General Manager