In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

J. K. Pandey
Chief General Manager

Date: August 01, 2018

C.A. No. 756/2018

In the matter of

Acko Technology & Services Private Limited
Unit 5, B Wing, 3rd Floor
Krislon House
Saki Vihar Road Saki Naka
Mumbai – 400 072
(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 thereunder, I pass the following

Order

1.   The applicant has filed the compounding application dated April 5, 2018 (received at the Reserve Bank of India on April 6, 2018) for compounding of contravention of the provision of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns), in terms of paragraph 9 (2) 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 May 3,

2000 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 was incorporated on September 7, 2016, under the Companies Act, 2013 as Acko Technology & Services Private Limited. Its main activities are to carry on the business of providing technology and outsourced services, establishing, running and managing data processing computer centres for development and implementation of technology products, data communication systems process or sub processes that are enabled by information technology including date, voice or video collection, call centre services, in-bound and out-bound calling services of all kinds, technical support, managed data centre, managed technical centre, web support back office, business or financial analysis, scientific analysis, research work and analysis, storage, disaster recovery, inventory management, customer relationship management and to develop software, provide consultancy, software solution and services that are normally offered by the outsourcing business and information technology service providers, the software developmental houses and application services including owning, leasing, designing, developing, websites, marketplaces, web aggregator of various products and services for all processes, sub processes, transactions, activities and all other work performed by business in various industries within India and across the world including but not limited to comprising and encompassing of non-core activities of insurance companies and other companies involved in insurance related services such as claim administration, survey, assessment including owning, creating, leasing, aggregating a network of motor vehicle garages, workshops, services centres, mechanics and other experts and services and technology associated with it including ancillary and incidental to it.

3.   The company has received foreign inward remittance in Financial Year 2016-17. The company has not filed the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Year 2016-17 on or before July 15. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification

No. FEMA 20/2000-RB read with A. P. (DIR Series) Circular No. 29 dated February 02, 2017, all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the 15th day of July each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.

4.   The applicant was given an opportunity for personal hearing vide e-mail dated July 12, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on July 13, 2018, during which Ms. Bhooma Kannan, Partner, Khanna & Co., Company Secretary represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing, it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along with the application.

5.   I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a)   Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB due to delayed filing of Annual Return on Foreign Liabilities and Assets for the Financial Year 2016-17.

6.   It has been declared in the compounding application dated April 5, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has further been stated in the declaration   dated   nil,   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/him/her 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 contravention which is 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 contraventions are to be compounded and I consider that an amount of Rs.10,000/- (Rupees Ten Thousand only) will meet the ends of justice.

8.   Accordingly, I compound the admitted contravention namely, the contravention of paragraph 9(2) of Schedule 1 to Notification   No. FEMA 20/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.10,000/- (Rupees Ten Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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.

9.   The above order is passed only in respect of contravention of paragraph 9(2) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: August 01, 2018.

Compounding Authority

Sd/-
(J. K. Pandey)
Chief General Manager