



In the

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

Present

**Sh. Vinod Kumar**  
**Deputy General Manager**

**Date: September 04, 2018**  
CA No CHA 22/2018

In the matter of

**VT Netzwelt Pvt. Ltd.**  
E-196, Level – 2  
Phase 8-B, Industrial Area  
Mohali (Punjab)

**(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 July 25, 2018 (received at the Reserve Bank on July 25, 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) issue of shares to foreign investor against post incorporation expenses without prior approval of the concerned ministry (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 which are in contravention of Paragraph 3(e), Para 9(1) (B) and Para 8 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, VT Netzwelt Pvt. Ltd. is a private Limited company incorporated under the provisions of Companies Act, 1956. The applicant is engaged in the business of managing and running computer training and data processing centers.

3. The applicant company had issued shares to the foreign investor twice against the post incorporation expenses without prior government approval. The company submitted post facto approval dated February 21, 2018 from Ministry of Electronics and Information Technology as per the details given below.

S. No	Date of issuance of shares	Amount	Date of Approval	Delay
1	10.02.14	2,50,000	21.02.18	1472 days
2	20.05.15	10,00,000	21.02.18	1008 days

As mentioned above, the company issued shares to foreign investor against post incorporation expenses without prior approval of the concerned ministry in contravention of **Para 3(e) of Schedule 1 to Notification No. 20/2000-RB dated May 3, 2000.**

4. Corresponding to the expenses, Company issued shares to the foreign investors. There are 02(Two) cases where the company failed to submit form FCGPR for issue of shares within the stipulated time. Hence there is contravention of paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000. The details are mentioned below:-

S. No	Date of inflow	Amount	Total inflow for share allotment	Shares issued on	Share amount	Date of reporting to RBI	Delay
1	19.05.13	83,592.00	2,51,167.35	10.02.14	2,50,000	03.05.18	1513 days
2	29.05.13	64,255.75					
3	09.07.13	21,553.00					
4	06.08.13	43,733.60					
5	17.10.13	36,215.00					
6	30.01.14	1818.00					
7	11.07.13	1,32,134.10	11,45,317.76	20.05.15	10,00,000	03.05.2018	1049 days
8	19.05.14	1,41,552.82					
9	27.06.14	2,87,564.36					
10	18.12.14	3,37,466.48					
11	03.02.15	2,46,600.00					

The applicant reported the allotment of shares to Reserve Bank with delay ranging **from 1049 to 1513 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. Further, the company applied for refund of excess amount to foreign investor with delay beyond 180 days as per the details enumerated below.

S. No	Date of first Inflow Involved	Expenses incurred	Share amount	Balance amount	Date of refund application	Delay (in days)
1	19.05.2013	2,51,167.35	2,50,000	<b>1167.35</b>	14.06.2018	<b>1672 days</b>
2	11.07.2013	11,45,317.76	10,00,000	<b>1,45,317.76</b>		<b>1619 days</b>

The applicant allotted the shares and applied for permission to refund the excess amount with **delay ranging from 1619 to 1672 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. In both cases, shares were issued to foreign investors against the expenses incurred by investor beyond stipulated 180 days. The details are enumerated below:-

S. No	Date of first Inflow Involved	Share amount	Shares issued on	Delay (in days)
1	19.05.2013	2,13,134.35	10.02.2014	<b>87</b>
2	11.07.2013	5,61,251.28	20.05.2015	<b>498</b>

The applicant allotted the shares to foreign investors with delay ranging **from 87 to 498 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 was given an opportunity for personal hearing vide letter No.CHD. FE.CG/FID/729/03.01.511/2018-19 dated August 09, 2018 for submission in person and/or producing documents, if any, in support of the application. Shri Surender Vikram Singh, Director, Shri. Ankit Singh, Authorized Representative, Smt. Laxmi Sinha, Associate and Shri Vivek Sawhney, Consultant of the company appeared for the personal hearing on August 29, 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.

8. It has been declared in the compounding application dated July 25, 2018 that the particulars given by the applicant in the application were true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated July 25, 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/him/her 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.

9. 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 3(e) of schedule 1 to notification No. FEMA 20/2000-RB due to issue of shares against post incorporation expenses without prior approval of the concerned ministry as detailed in paragraph 3 above. The contravention relates to an amount of **Rs 12,50,000 with delay ranging from 1008 to 1472 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 12,50,000 with delay ranging from 1049 to 1513 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 1,46,528.73 with delay ranging from 1619 and 1672 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 7,74,385.63 with delay ranging from 87 to 498 days.**

10. 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. 1,24,923.00 (One Lakh Twenty Four Thousand Nine Hundred twenty Three only)** will meet the ends of justice.

11. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contraventions committed by the applicant namely, Para Paragraph 3(e), Para 9(1) (B) and Para 8 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. 1,24,923.00 (One Lakh Twenty Four Thousand Nine Hundred twenty Three 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 04<sup>th</sup> day of September 2018.

Sd/-  
Vinod Kumar  
Deputy General Manager