



In the

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

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: October 25, 2018
C.A. HYD 317

In the matter of

M/s. Apache Footwear India Private Limited
Mambattu Village, Tada Mandal
Nellore District
Andhra Pradesh – 524 401

(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 June 06, 2018 received on June 13, 2018 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) delay in allotment of shares to the non-resident investor and delay in receipt of share application money after allotment of shares in terms of Paragraph 9(1)(A),



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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 May 03, 2000 (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 20.02.2006 (CIN: U19202AP2006PTC049219). The company is engaged in the business of manufacturing footwear.
- b) The applicant had received foreign inward remittances from single foreign investor towards advance for subscription to equity shares as indicated below.

SI No	Name of the Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Apache Investment Holding Pte Ltd.	1000000	12.04.2006	22.09.2008
2	Apache Investment Holding Pte Ltd.	4492400	19.04.2006	22.09.2008
3	Apache Investment Holding Pte Ltd.	41195430	13.06.2006	13.07.2006
4	Apache Investment Holding Pte Ltd.	23275000	21.07.2006	29.11.2006
5	Apache Investment Holding Pte Ltd.	6925950	10.08.2006	13.11.2006
6	Apache Investment Holding Pte Ltd.	20814255	18.08.2006	13.11.2006



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7	Apache Investment Holding Pte Ltd.	6901050	13.09.2006	29.11.2006
8	Apache Investment Holding Pte Ltd.	22822000	21.09.2006	29.11.2006
9	Apache Investment Holding Pte Ltd.	18154400	06.10.2006	29.11.2006
10	Apache Investment Holding Pte Ltd.	6824550	09.10.2006	29.11.2006
11	Apache Investment Holding Pte Ltd.	27041700	20.10.2006	29.11.2006
12	Apache Investment Holding Pte Ltd.	5336760	08.11.2006	29.11.2006
13	Apache Investment Holding Pte Ltd.	2235000	17.11.2006	22.09.2008
14	Apache Investment Holding Pte Ltd.	17880000	22.11.2006	22.09.2008
15	Apache Investment Holding Pte Ltd.	30843000	29.11.2006	22.09.2008
16	Apache Investment Holding Pte Ltd.	44649827.20	11.12.2006	22.09.2008
17	Apache Investment Holding Pte Ltd.	5337548.30	21.12.2006	22.09.2008
18	Apache Investment Holding Pte Ltd.	8869829	21.12.2006	22.09.2008
19	Apache Investment Holding Pte Ltd.	11087329	22.12.2006	22.09.2008
20	Apache Investment Holding Pte Ltd.	4421729.76	09.01.2007	22.09.2008



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21	Apache Investment Holding Pte Ltd.	13289829	18.01.2007	22.09.2008
22	Apache Investment Holding Pte Ltd.	6644829	24.01.2007	22.09.2008
23	Apache Investment Holding Pte Ltd.	5315432	29.01.2007	22.09.2008
24	Apache Investment Holding Pte Ltd.	15061432	31.01.2007	20.06.2007
25	Apache Investment Holding Pte Ltd.	4404435	03.02.2007	20.06.2007
26	Apache Investment Holding Pte Ltd.	2193237.07	03.02.2007	20.06.2007
27	Apache Investment Holding Pte Ltd.	20482685	07.02.2007	20.06.2007
28	Apache Investment Holding Pte Ltd.	21143435	12.02.2007	20.06.2007
29	Apache Investment Holding Pte Ltd.	41406435	15.02.2007	20.06.2007
30	Apache Investment Holding Pte Ltd.	6606935	09.03.2007	20.06.2007
31	Apache Investment Holding Pte Ltd.	4404436	09.03.2007	20.06.2007
32	Apache Investment Holding Pte Ltd.	13214435.72	09.03.2007	13.09.2007
33	Apache Investment Holding Pte Ltd.	12333435	20.03.2007	20.06.2007
34	Apache Investment Holding Pte Ltd.	2862685	29.03.2007	20.06.2007



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35	Apache Investment Holding Pte Ltd.	8148685	29.03.2007	20.06.2007
36	Apache Investment Holding Pte Ltd.	21724443	04.04.2007	20.06.2007
37	Apache Investment Holding Pte Ltd.	14337943	12.04.2007	20.06.2007
38	Apache Investment Holding Pte Ltd.	2171943	16.04.2007	20.06.2007
39	Apache Investment Holding Pte Ltd.	13468943	19.04.2007	20.06.2007
40	Apache Investment Holding Pte Ltd.	20846754	27.04.2007	20.06.2007
41	Apache Investment Holding Pte Ltd.	4195000	09.05.2007	20.06.2007
42	Apache Investment Holding Pte Ltd.	25170000	15.05.2007	20.06.2007
43	Apache Investment Holding Pte Ltd.	12585000	23.05.2007	20.06.2007
44	Apache Investment Holding Pte Ltd.	6135000	04.06.2007	13.09.2007
45	Apache Investment Holding Pte Ltd.	14315000	06.06.2007	13.09.2007
46	Apache Investment Holding Pte Ltd.	12270000	13.06.2007	13.09.2007
47	Apache Investment Holding Pte Ltd.	12270000	15.06.2007	13.09.2007
48	Apache Investment Holding Pte Ltd.	12270000	20.06.2007	13.09.2007



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49	Apache Investment Holding Pte Ltd.	12270000	28.06.2007	13.09.2007
50	Apache Investment Holding Pte Ltd.	4105000	05.07.2007	13.09.2007
51	Apache Investment Holding Pte Ltd.	10262500	06.07.2007	13.09.2007
52	Apache Investment Holding Pte Ltd.	19925000	12.07.2007	31.07.2008
53	Apache Investment Holding Pte Ltd.	13035000	13.07.2007	31.07.2008
54	Apache Investment Holding Pte Ltd.	8209474.15	20.07.2007	13.09.2007
55	Apache Investment Holding Pte Ltd.	10862152.40	23.07.2007	31.07.2008
56	Apache Investment Holding Pte Ltd.	6157500	26.07.2007	13.09.2007
57	Apache Investment Holding Pte Ltd.	8093000	30.07.2007	31.07.2008
58	Apache Investment Holding Pte Ltd.	4046344.82	30.07.2007	31.07.2008
59	Apache Investment Holding Pte Ltd.	16220000	07.08.2007	13.09.2007
60	Apache Investment Holding Pte Ltd.	6082500	14.08.2007	31.07.2008
61	Apache Investment Holding Pte Ltd.	14192500	21.08.2007	13.09.2007
62	Apache Investment Holding Pte Ltd.	14565760	24.08.2007	31.07.2008



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63	Apache Investment Holding Pte Ltd.	19464000	27.08.2007	13.09.2007
64	Apache Investment Holding Pte Ltd.	9165500	26.11.2007	31.07.2008
65	Apache Investment Holding Pte Ltd.	13947500	30.11.2007	31.07.2008
66	Apache Investment Holding Pte Ltd.	19924681.20	06.12.2007	31.07.2008
67	Apache Investment Holding Pte Ltd.	13947500	18.12.2007	31.07.2008
68	Apache Investment Holding Pte Ltd.	11910000	23.01.2008	31.07.2008
69	Apache Investment Holding Pte Ltd.	71750310	20.01.2009	11.10.2010
70	Apache Investment Holding Pte Ltd.	49580000	12.05.2009	27.02.2012
71	Apache Investment Holding Pte Ltd.	23890000	20.05.2009	27.02.2012
72	Apache Investment Holding Pte Ltd.	24197500	31.07.2009	27.02.2012
73	Apache Investment Holding Pte Ltd.	24035000	31.07.2009	27.02.2012
74	Apache Investment Holding Pte Ltd.	21284900	18.12.2009	21.06.2010
75	Apache Investment Holding Pte Ltd.	22725000	12.01.2010	13.07.2010
76	Apache Investment Holding Pte Ltd.	22749636	25.03.2010	12.10.2011



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77	Apache Investment Holding Pte Ltd.	22235000	20.04.2010	12.10.2011
78	Apache Investment Holding Pte Ltd.	8979640.80	13.05.2010	12.10.2011
79	Apache Investment Holding Pte Ltd.	9343626.24	06.07.2010	12.10.2011
80	Apache Investment Holding Pte Ltd.	9179632.80	06.08.2010	12.10.2011
81	Apache Investment Holding Pte Ltd.	27959627.20	08.09.2010	12.10.2011
82	Apache Investment Holding Pte Ltd.	46250000	16.09.2010	29.10.2010
83	Apache Investment Holding Pte Ltd.	45680000	21.09.2010	29.10.2010
84	Apache Investment Holding Pte Ltd.	45100000	28.09.2010	29.10.2010
85	Apache Investment Holding Pte Ltd.	44242500	06.10.2010	29.10.2010
86	Apache Investment Holding Pte Ltd.	44400000	19.10.2010	27.01.2011
87	Apache Investment Holding Pte Ltd.	11049646.40	03.11.2010	12.10.2011
88	Apache Investment Holding Pte Ltd.	45070000	15.11.2010	05.01.2011
89	Apache Investment Holding Pte Ltd.	45070000	10.12.2010	05.01.2011
90	Apache Investment Holding Pte Ltd.	45130000	29.12.2010	27.01.2011



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91	Apache Investment Holding Pte Ltd.	45500000	20.01.2011	24.03.2011
92	Apache Investment Holding Pte Ltd.	45720000	01.02.2011	24.03.2011
93	Apache Investment Holding Pte Ltd.	44195000	21.04.2011	09.05.2011
94	Apache Investment Holding Pte Ltd.	89399642.40	19.05.2011	22.07.2011
95	Apache Investment Holding Pte Ltd.	44770000	23.05.2011	22.07.2011
96	Apache Investment Holding Pte Ltd.	44769641.84	23.05.2011	22.07.2011
97	Apache Investment Holding Pte Ltd.	66990000	31.05.2011	22.07.2011
98	Apache Investment Holding Pte Ltd.	30961000	30.06.2011	12.10.2011
99	Apache Investment Holding Pte Ltd.	44340000	14.07.2011	12.10.2011
100	Apache Investment Holding Pte Ltd.	44760000	08.08.2011	12.10.2011
101	Apache Investment Holding Pte Ltd.	45150000	12.08.2011	05.03.2012
102	Apache Investment Holding Pte Ltd.	46630000	12.09.2011	27.10.2011
103	Apache Investment Holding Pte Ltd.	8558619.60	19.09.2011	12.10.2011
104	Apache Investment Holding Pte Ltd.	48509611.92	22.09.2011	12.10.2011



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105	Apache Investment Holding Pte Ltd.	48650000	13.10.2011	10.11.2011
106	Apache Investment Holding Pte Ltd.	49199606.40	02.11.2011	25.11.2011
107	Apache Investment Holding Pte Ltd.	60648000	17.11.2011	15.12.2011
108	Apache Investment Holding Pte Ltd.	47070000	25.11.2011	15.12.2011
109	Apache Investment Holding Pte Ltd.	41279587.20	11.01.2012	27.01.2012
110	Apache Investment Holding Pte Ltd.	49200000	22.02.2012	13.03.2012
111	Apache Investment Holding Pte Ltd.	49890000	06.03.2012	28.03.2012
112	Apache Investment Holding Pte Ltd.	50070000	19.03.2012	18.04.2012
113	Apache Investment Holding Pte Ltd.	50850000	30.03.2012	18.04.2012
114	Apache Investment Holding Pte Ltd.	26200000	30.04.2012	22.05.2012
115	Apache Investment Holding Pte Ltd.	298307.58	03.05.2012	20.07.2012
116	Apache Investment Holding Pte Ltd.	39780000	03.05.2012	02.06.2012
117	Apache Investment Holding Pte Ltd.	109800000	22.05.2012	08.06.2012
118	Apache Investment Holding Pte Ltd.	56135000	29.06.2012	30.08.2012



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119	Apache Investment Holding Pte Ltd.	55080000	23.08.2012	05.09.2012
120	Apache Investment Holding Pte Ltd.	32580000	09.11.2012	23.11.2012
121	Apache Investment Holding Pte Ltd.	54630000	20.12.2012	31.01.2013
122	Apache Investment Holding Pte Ltd.	54740000	07.01.2013	23.01.2013
123	Apache Investment Holding Pte Ltd.	53820000	21.03.2013	02.04.2013
124	Apache Investment Holding Pte Ltd.	59100000	16.07.2013	24.07.2013
125	Apache Investment Holding Pte Ltd.	64000000	26.08.2013	04.09.2013
126	Apache Investment Holding Pte Ltd.	61250000	24.10.2013	04.11.2013
127	Apache Investment Holding Pte Ltd.	60950000	13.03.2014	21.03.2014
128	Apache Investment Holding Pte Ltd.	61110000	20.03.2014	11.04.2014
129	Apache Investment Holding Pte Ltd.	60020000	27.03.2014	03.04.2014
130	Apache Investment Holding Pte Ltd.	60580000	21.08.2014	30.08.2014
131	Apache Investment Holding Pte Ltd.	30275000	02.09.2014	22.09.2014
132	Apache Investment Holding Pte Ltd.	91860000	07.10.2014	14.10.2014



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133	Apache Investment Holding Pte Ltd.	61750000	24.11.2014	01.12.2014
134	Apache Investment Holding Pte Ltd.	133180000	30.11.2015	07.04.2016
135	Apache Investment Holding Pte Ltd.	135200000	22.01.2016	07.04.2016
136	Apache Investment Holding Pte Ltd.	137040000	22.02.2016	07.04.2016
137	Apache Investment Holding Pte Ltd.	133300000	28.03.2016	07.04.2016
	Total	433,54,57,094		

The applicant received the foreign inward remittances amounting to **₹4,33,54,57,094/-** as indicated above out of which remittances amounting to **₹2,44,39,25,478.88** were reported to Reserve Bank of India with delays ranging from 1 day to 2 years 8 months 16 days 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 the investor	Date of allotment of shares	Number of shares/CC PS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Apache Investment Holding Pte Ltd.	01.03.2007	49999	499990	13.02.2009



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2	Hong Kong Apache Footwear Limited	01.03.2007	1	10	13.02.2009
3	Apache Investment Holding Pte Ltd.	29.09.2008	17911250	895562500	13.02.2009
4	Apache Investment Holding Pte Ltd.	31.03.2009	1663650	71748500	24.09.2010
5	Apache Investment Holding Pte Ltd.	10.11.2009	2434000	121700000	21.02.2012
6	Apache Investment Holding Pte Ltd.	31.05.2010	1959400	97970000	12.10.2011
7	Apache Investment Holding Pte Ltd.	03.01.2011	8369500	418475000	12.10.2011
8	Apache Investment Holding Pte Ltd.	14.07.2011	9132900	456645000	10.11.2011
9	Apache Investment Holding Pte Ltd.	31.01.2012	1798200	89910000	23.02.2012
10	Apache Investment Holding Pte Ltd.	08.03.2012	8763600	350544000	07.04.2012
11	Apache Investment Holding Pte Ltd.	17.08.2012	10798125	431925000	13.09.2012
12	Apache Investment Holding Pte Ltd.	18.02.2013	7114500	142290000	20.03.2013
13	Apache Investment Holding Pte Ltd.	15.06.2013	5428000	108560000	14.07.2013
14	Apache Investment Holding Pte Ltd.	15.12.2013	9217500	184350000	18.01.2014
15	Apache Investment Holding Pte Ltd.	23.06.2014	9104000	182080000	17.07.2014



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16	Apache Investment Holding Pte Ltd.	09.02.2015	12223250	244465000	03.03.2015
17	Apache Investment Holding Pte Ltd.	17.05.2016	13468000	538720000	29.05.2016
	Total		119435875	4,33,54,45,000	

The applicant filed form FCGPRs for issue of shares amounting to ₹4,33,54,45,000/- as indicated above out of which shares amounting to ₹2,24,69,51,000/- were reported with delays ranging from 4 days to 2 years 2 months 11 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 applicant has delayed in allotment of shares amounting to ₹ 11,86,53,307.44 to the foreign investor beyond the stipulated period of 180 days from the date of receipt of remittances. Period of contravention ranges from 1 day to 4 months 1 day approximately.

SI No	Name of the Remitter	Total Amount (INR)	Date of receipt of remittance	Date of allotment
1	Apache Investment Holding Pte Ltd.	13947500	30.11.2007	29.09.2008
2	Apache Investment Holding Pte Ltd.	19924681.20	06.12.2007	29.09.2008
3	Apache Investment Holding Pte Ltd.	13947500	18.12.2007	29.09.2008



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4	Apache Investment Holding Pte Ltd.	11910000	23.01.2008	29.09.2008
5	Apache Investment Holding Pte Ltd.	49580000	12.05.2009	10.11.2009
6	Apache Investment Holding Pte Ltd.	9343626.24	06.07.2010	03.01.2011
	Total	118653307.44		

f. The applicant has also delayed in receiving inward remittance of ₹ 2,98,307.58 after allotment of shares with a delay of 3 years 7 months 4 days approximately as shown below:

SI No	Name of the Remitter	Total Amount (INR)	Date of receipt of remittance	Date of allotment
1	Apache Investment Holding Pte Ltd.	298307.58	03.05.2012	29.09.2008
	Total	298307.58		

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, 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 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment



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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/702/14.66.003/2018-19 dated October 11, 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 October 15, 2018 during which Shri. V P Kuriachan, Chartered Accountant represented the applicant. The authorized representative of the company 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 professional guidance on the compliance matters during their initial stages. 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 ₹2,44,39,25,478.88 and the delay ranges from 1 day to 2 years 8 months 16 days 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 ₹



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2,24,69,51,000/- and the period of contravention ranges from 4 days to 2 years 2 months 11 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007 for delay in allotment of shares amounting to ₹11,86,53,307.44 to the foreign investor with delays ranging from 1 day to 4 months 1 day approximately and for delay in receipt of share application money of ₹2,98,307.58 after allotment of shares with a delay of 3 years 7 months 4 days approximately.

5. It has been declared in the compounding application dated June 06, 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 June 06, 2018 furnished with the compounding application that the applicant was under investigation of Directorate of Enforcement (DoE) for delay in submission of export bills as on the date of the application. The same was informed to us by DoE vide their letter dated January 03, 2018 and requested us to forward a copy of the Compounding Order if passed. 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 **₹ 32,30,802/- (Rupees Thirty Two Lakh Thirty Thousand Eight Hundred Two Only)** will meet the ends of justice.



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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 ₹ **32,30,802/- (Rupees Thirty Two Lakh Thirty Thousand Eight Hundred Two 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 25th day of October 2018

Sd/-

(Subrata Das)
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)