



In the

**Reserve Bank of India**  
Foreign Exchange Department  
5th floor, Amar Building  
Fort, Mumbai - 400 001

Present

**Nitin Puppal**  
**Assistant General Manager**

Date April 17, 2017  
CA No. 4200/2016

In the matter of

**Aptivaa Consulting Solutions Pvt. Ltd.**  
**841, Solitaire Corporate Park, 167, Guru Hargovindji Marg, Chakala, Andheri – 400 093**

**(Applicant)**

In exercise of the powers 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 October 25, 2016 (received at the Reserve Bank on October 26, 2016) 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 by the applicant are the contraventions of provisions of Regulation 15 (i) and 15 (iii) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Amendment) Regulations, 2004 Notification No. FEMA.120 / RB-2004 dated July 7, 2004 (hereinafter referred to as FEMA 120/RB-2004).

2. The relevant facts of the case are as follows:

i. The Applicant, a resident company in India bearing CIN U74140MH2005PTC152710 had made an investment on July 06, 2010 of USD 16,000 in the Wholly Owned Subsidiary by submitting ODI Form I through the AD bank for which UIN BYWAZ20100506 was allotted. The IP is engaged in data processing, software development and computer consultancy services. The Indian Party did not submit copy of the share certificate of the overseas entity / documentary evidence for the investment made within the specified time and obtained the share



certificate in October 2016 i.e. after a delay of more than six years in contravention of the provisions of Regulation 15 (i) of Notification No. FEMA 120/RB-2004 dated dated July 7, 2004.

ii. The Indian Party submitted APRs for the years 2010-11 to 2015-16 with a delay of 68 days to 1348 days, in contravention of Regulation 15 (iii) of Notification No. FEMA 120/RB-2004 dated dated July 7, 2004.

3. In terms of Regulation 15 (i) of Notification No. FEMA 120/RB-2004, an Indian Party, which has acquired foreign security in terms of the Regulations in Part- I, shall -:

i. receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date of effecting remittance or the date on which the amount to be capitalised became due to the Indian Party or the date on which the amount due was allowed to be capitalised.

ii. In terms of Regulation 15 (iii) of Notification No. FEMA 120/RB-2004, an Indian Party may submit to the Reserve Bank every year within 60 days from the date of expiry of the statutory period as prescribed by the respective laws of the host country for finalisation of the audited accounts of the Joint Venture/Wholly Owned Subsidiary outside India or such further period as may be allowed by Reserve Bank, an annual performance report in form APR in respect of each Joint Venture or Wholly Owned Subsidiary outside India set up or acquired by the Indian Party and other reports or documents as may be stipulated by the Reserve Bank.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FE. CO. CEFA. No. 9022/15.20.67/2016-17 dated March 08, 2017 for further submission in person and / or producing documents, if any, in support of the application. The personal hearing took place on March 08, 2017 during which Shri Deepak Mane, Manager - Accounts & Finance, Aptivaa Consulting Solutions Pvt. Ltd. and Shri Anshuman Chatruvedi, Chartered Accountant appeared for the same. The representatives of the applicant admitted the contraventions committed by them for which compounding has been sought. During the personal hearing, it was submitted that there was no mala fide intention by the Company and/or its officers. The representatives of the applicant requested that in view of the foregoing, 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 as well as other documents and submissions in made by them this context in the compounding application.



5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of Regulations 15 (i) and Regulations 15 (iii) of FEMA 120/RB-2004 for a time period ranging from two months to six years approximately. The amount of contravention is USD 16,000 (INR 7,61,280).

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 contraventions are to be compounded and I consider that an amount of Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand only), will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of Regulations 15 (i) and Regulations 15 (iii) of FEMA 120/RB-2004 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. 1,20,000/- (Rupees One Lakh Twenty Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 11<sup>th</sup> Floor, Central Office Building, 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.

The application is disposed of accordingly.

Dated this the seventeenth day of April, 2017

Sd/-

**(Nitin Puppal)**  
**Assistant General Manager**