



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Shekhar Bhatnagar**  
**Chief General Manager**

Date: April 10, 2017  
CA No. 4188/2016

In the matter of

**Belkin India Private Limited**  
**Suite 1, 1<sup>st</sup> Floor, Vatika Business Park**  
**Tower 2, Sector 49, Sohna Road**  
**Gurgaon – 112001**  
**Haryana**

**(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 October 13, 2016 (received in the Reserve Bank of India on October 17, 2016) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is borrowing (expenditure occurred by group companies on behalf of the applicant, not paid within the stipulated time period) in foreign exchange from its group companies abroad without meeting the stipulated conditions, in contravention of Regulation 3 read with Schedule I of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 3/2000-RB).



2. The relevant facts of the case are as follows: The applicant was incorporated in India, as Belkin India Private Limited on April 16, 2009 (CIN: U51900DL2009FTC189406), in order to provide marketing, advertisement and technical support services to overseas group entities in relation to computer products, mobility products, accessories and other products of the Belkin Group. The applicant was incorporated as a subsidiary of Belkin B.V., Netherlands. Since its incorporation in 2009, BIPL had been incurring certain expenditure that was paid by its overseas group entities as follows:

S.No.	Name of the group company	Date of transaction	Amount (INR)
1	Belkin International Inc., USA	01.06.2010	149422
2	-do-	01.07.2010	290129
3	-do-	01.08.2010	226991
4	-do-	01.09.2010	1409399
5	-do-	01.10.2010	133592
6	-do-	02.10.2010	13422
7	-do-	01.11.2010	25554
8	-do-	01.12.2010	44557
9	-do-	01.01.2011	13866
10	-do-	01.02.2011	54683
11	-do-	01.03.2011	68241
12	-do-	01.04.2011	53948
13	-do-	01.05.2011	54677
14	-do-	01.06.2011	68315
15	-do-	01.07.2011	54652
16	-do-	01.08.2011	55349
17	-do-	01.09.2011	461371
18	-do-	01.10.2011	72210
19	-do-	01.11.2011	73762
20	-do-	01.12.2011	106839



21	-do-	01.01.2012	86191
22	-do-	01.02.2012	72027
23	-do-	26.02.2012	91209
24	-do-	30.03.2012	10766
25	-do-	28.04.2012	87173
26	-do-	25.05.2012	91328
27	-do-	30.06.2012	123854
28	-do-	30.07.2012	80670
29	-do-	25.08.2012	373970
30	-do-	30.09.2012	78793
31	-do-	26.10.2012	29000
32	-do-	24.11.2012	29720
33	-do-	29.12.2012	234172
34	-do-	26.01.2013	67881
35	-do-	23.02.2013	92975
36	-do-	30.03.2013	25769
37	-do-	27.04.2013	883580
38	-do-	25.05.2013	163385
39	-do-	29.06.2013	128820
40	-do-	27.07.2013	38036
41	-do-	24.08.2013	280930
42	-do-	28.09.2013	121582
43	-do-	23.11.2013	100877
44	-do-	28.12.2013	56248
45	-do-	25.01.2014	11605
46	-do-	22.02.2014	37291
47	-do-	25.03.2014	156139
48	-do-	25.04.2014	148888
49	-do-	24.05.2014	164853
50	-do-	28.06.2014	17842
51	-do-	23.08.2014	175759
52	-do-	24.09.2014	211148



53	-do-	24.10.2014	42525
54	-do-	21.11.2014	6740
55	-do-	23.12.2014	4731
56	-do-	27.12.2014	29394
57	-do-	23.01.2015	271065
58	-do-	20.02.2015	1177
59	-do-	28.03.2015	296450
60	Belkin Limited, Australia	August, 2009	25368
61	-do-	January, 2011	26300
62	-do-	November, 2012	2415001
63	-do-	January, 2013	121993
64	Belkin Pte. Limited, Singapore	01.10.2009	229269
65	-do-	01.11.2009	(72799)
66	-do-	01.12.2009	700000
67	-do-	01.01.2010	92258
68	-do-	01.09.2010	88848
69	Belkin Asia Pacific Limited, Hong Kong	21.08.2009	5548126
70	-do-	23.09.2009	4011275
71	-do-	23.10.2009	2360162
72	-do-	19.11.2009	2188625
73	-do-	21.11.2009	1006766
74	-do-	01.12.2009	(318672)
75	-do-	17.12.2009	2829349
76	-do-	18.01.2010	2038678
77	-do-	20.01.2010	1004279
78	-do-	18.02.2010	42867
79	-do-	01.03.2010	115757
80	-do-	04.03.2010	187400
81	-do-	25.03.2010	1390740
82	-do-	01.04.2010	82790
83	-do-	01.05.2010	21407
84	-do-	01.08.2010	944446



85	-do-	01.01.2011	75289
86	-do-	01.07.2011	26460
87	-do-	01.08.2011	9207
88	-do-	01.09.2011	6262
89	-do-	01.10.2011	37092
90	-do-	01.11.2011	6324
91	-do-	01.12.2011	18218
92	-do-	01.01.2012	16558
93	-do-	01.02.2012	7160
94	-do-	01.03.2012	34383
95	-do-	01.09.2011	(1589698)
96	-do-	28.04.2012	102716
97	-do-	30.06.2012	7270
98	-do-	29.09.2012	129183
99	Belkin Limited, Hong Kong	01.11.2010	121069
100	-do-	01.12.2010	14152
	Total		42997281

The payments since remitted to the group companies, amounted to external commercial borrowings, thereby contravening Regulation 3 read with Schedule I of Notification No. FEMA 3/2000-RB. The post facto approval was provided by RBI vide its letter dated August 29, 2016, subject to compounding.

3. Regulation 3 of Notification No. FEMA 3/2000-RB states that, "Save as otherwise provided in the Act, Rules or Regulations made thereunder, no person resident in India shall borrow or lend in foreign exchange from or to a person resident in or outside India...."

Whereas Schedule I of the same Notification stipulates certain conditions for borrowings in foreign exchange under the automatic route.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA/9823/15.20.67/2016-17 dated March 29, 2017 for further submission in person and/or producing documents, if any, in support of the application.



The personal hearing was held on April 05, 2017 during which Shri Naveen Gupta, Partner, BSR & Co. LLP, Chartered Accountants, Shri Shrey Khanna, Manager, BSR & Co. LLP, Chartered Accountants and Ms. Pooja Lara, BSR & Co. LLP, represented the applicants. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

6. 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 provisions of Regulation 3 read with Schedule I of Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time. The amount of contravention is Rs. 4,29,97,281/- and period of contravention ranges from one year to six years approximately.

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. 3,56,379/- (Rupees three lakh fifty six thousand three hundred and seventy nine only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 3 read with Schedule I of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time, 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. 3,56,379/- (Rupees three lakh fifty six thousand three hundred and seventy nine only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> Floor, Amar 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 tenth day of April, 2017

**Sd/-**

**(Shekhar Bhatnagar)**  
**Chief General Manager**