



In the

Reserve Bank of India
10/3/8, Nrupathunga Road,
Bengaluru-560001

Present

Gopal B Terdal
Assistant General Manager

Date: June 02, 2017
C.A. BGL203/2017

In the matter of

M/s CoKinetic Systems India Private Limited
No. 39, 1st Floor, 1st Cross, Tavarekere Main Road
Krishna Nagar Industrial Area
Bengaluru - 560029
(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders framed there under, I pass the following

ORDER

The applicant has filed a compounding application dated January 20, 2017 (received at the Reserve Bank on February 13, 2017), 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 are (i) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India and (ii) issue of equity shares to the foreign investor prior to the receipt of inward remittance in terms of paragraphs 9(1) (B) and 8 respectively, of Schedule I 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 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, M/s CoKinetic Systems India Private Limited, was incorporated on July 11, 2006. The company is engaged in the business of software development and software supporting services, etc, The company had allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting
1	11.07.2006	4,99,990.00	06.04.2015
Total		4,99,990.00	

The applicant filed the Form FC-GPRs on allotment of shares with the Reserve Bank / Authorized Dealer bank, with a delay of eight years seven months and twenty seven days approximately beyond the prescribed period of 30 days in respect of allotment of shares indicated above. Whereas in terms of Paragraph 9(1) (B) of Schedule I to Notification No.FEMA.20/2000-RB, an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to persons resident outside India.

3. The applicant company had allotted equity shares to the foreign investor as indicated below:

Sr. No.	Amount (Rs.)	Date of receipt of funds	Date of allotment of shares
1	4,99,990.00	06.02.2012	11.07.2006
	4,99,990.00		

The applicant company had allotted shares to the foreign investor towards subscription to Memorandum of Association of the company prior to receipt of foreign inward remittance aggregating to Rs.4,99,990.00 which was received with a delay of five years four months and twenty eight days approximately, i.e.



without having sufficient share application money, in contravention of Para 8 of Schedule 1 to Notification No. FEMA20/2000-RB.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No. FE.BG.FID (CEFA) No. 6346/22.09.343/2016-17 dated May 15, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on May 19, 2017 and Shri Ramachandra Bhat S, Practicing Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in paragraphs 2 and 3 above committed by the applicant, for which compounding has been sought. The representative of the applicant requested that as the contraventions were not intentional and were beyond the control of the applicant, 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 made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

5. 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) (B) of Schedule I to Notification No. FEMA 20/2000-RB due to delay in reporting allotment of shares towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs. 4,99,990.00** and delay of eight years seven months and twenty seven days approximately.

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB as the applicant allotted shares to the foreign investors prior to the receipt of foreign inward remittance as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.4,99,990.00** and the period of contravention is five years four months and twenty eight days approximately .



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. 52,500/- (Rupees Fifty Two Thousand and Five Hundred only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9 (1) (B) and 8 of Schedule I 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 **Rs. 52,500.00 (Rupees Fifty Two Thousand and Five Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru - 560001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Bengaluru 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 Second day of June 2017.

Sd/-

(Gopal B Terdal)
Assistant General Manager