



In the

**Reserve Bank of India**  
Foreign Exchange Department  
Mumbai Regional Office  
Main Building, 3rd floor  
Shahid Bhagat Singh Marg, Fort  
Mumbai 400 001

Present

**Ms. S. V. Nadkarni**  
General Manager

**Date: June 29, 2017**

**C.A. No. 698/2017**

In the matter of

**M/s Elitser Technologies Pvt. Ltd.**  
3, Aishwarya Sankul,  
G. A. Kulkarni Marg, Near Sangam Press,  
Kothurd,  
Pune-411029

**(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 thereunder, I pass the following

**Order**

1. The applicant has filed the compounding application dated May 17, 2017 (received at the Reserve Bank on May 23, 2017) 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) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of the inward remittance (ii) delay in reporting receipt of foreign inward remittance towards subscription to equity; and (iii) delay in submission of Form FC-GPR to the Reserve



Bank after issue of shares to a person resident outside India in terms of paragraphs 8, 9(1)(A) and 9(1)(B) 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 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 was incorporated on April 30, 2009 under the Companies Act, 1956 and is engaged in the business in India and abroad, as manufacturers, processors, designers, developers, buyers, sellers, assemblers, dealers, importers, exporters, suppliers, distributors, and agents of electrical, electronic, mechanical products, machines, appliances, parts, accessories, tools, equipments, instruments, plants, machines, and devices required in the products and software in the field of wireless RFID, smart cards, and other products required for IT enabled services and in the area of automation systems, Automation plants, machineries, Programmable Logic Controls, Distributed Control Systems, control panels, AC/DC drives, CNC, Robotics, Data Loggers, Battery Management Automation, Machine Tools and Process Automation Turnkey Solutions, automation, Computer Software, Computer Hardware, Control Software and Control Hardware used in and for Industrial, domestic, commercial, agricultural, educational and training purposes. The applicant received foreign inward remittance from M/s Elitser IT Solutions (S) Pte. Ltd., Singapore towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

<b>Sr. No.</b>	<b>Amount of Foreign Inward remittance (INR)</b>	<b>Date of receipt</b>	<b>Date of reporting to RBI</b>
1.	19,15,100.00	03.07.2009	27.07.2009
2.	4,82,093.00	18.08.2009	14.09.2009
3.	11,62,989.00	31.12.2009	18.07.2011
4.	11,54,494.00	25.02.2010	18.07.2011
5.	23,20,554.00	20.08.2010	18.02.2011
6.	13,22,863.00	02.08.2011	26.10.2015
7.	14,80,284.00	30.01.2012	26.10.2015



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8.	5,55,266.00	03.08.2012	26.10.2015
9.	5,40,688.00	06.11.2012	26.10.2015
10.	5,41,851.00	27.12.2012	26.10.2015
11.	5,27,384.00	01.02.2013	26.10.2015
<b>Total</b>	<b>1,20,03,566.00</b>		

The applicant reported receipt of remittances to the Reserve Bank with a delay ranging from 4 months 29 days to 4 years 1 month and 25 days approximately in respect of remittances recorded at serial no. 3 to 11 above. 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.

3. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No.	No. of shares	Face Value (INR)	Premium (INR)	Amount (INR)	Date of allotment	Reported to RBI on
1.	2,200	10/-	2133.034	47,14,675.00	25.02.2010	25.02.2016
2.	1,800	10/-	1279.200	23,20,560.00	20.08.2010	25.02.2016
3.	1500	10/-	3302.224	49,68,336.00	03.02.2016	25.02.2016
<b>Total</b>	<b>5,500</b>			<b>1,20,03,571.00</b>		

The applicant filed form FC-GPRs as indicated above with a delay ranging from 5 years 5 months 6 days to 5 years 11 months and 1 day approximately at serial no. 1 and 2 above. 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 a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company has received inward remittances amounting to Rs. 1,20,03,566/- in 11 tranches and allotted share in 3 tranches. Company has issued shares



amounting to Rs. 73,65,529/- beyond the prescribed limit of 180 days without the approval of Reserve Bank, with a delay ranging from 8 days to 4 years and 2 days approximately from the date of receipt. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, 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 resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Government of India.

5. The applicant was given an opportunity for personal hearing vide the Email dated June 05, 2017, for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on June 20, 2017 during which Mr. Shirish Jayant Mujumdar, Director, Mr. Ravindra Raghunath Gokhale, Director and Mr. Dinesh Joshi, Company Secretary represented the applicant. The authorised representatives of the applicant admitted the contraventions for which compounding has been sought. During the personal hearing it was submitted that the delay was inadvertent and unintentional. They requested that in view thereof, the matter may be viewed leniently. 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 submitted along-with the application.

6. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter.



Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application not refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.73,65,529/- and the duration of the contravention was ranging from 8 days to 4 years and 2 days approximately.

(b) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed in paragraph 2 above. The contravention relates to an amount of Rs.96,06,373/- and the duration ranging from 4 months 29 days to 4 years 1 month and 25 days approximately.

(c) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.70,35,235/- with a delay ranging from 5 years 5 months 6 days to 5 years 11 months and 1 day 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. 1,72,084/- (Rupees One Lakh Seventy Two Thousand Eighty Four only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of paragraphs 8, 9(1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB by the applicant on the facts discussed above in terms of the



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Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 1,72,084/- (Rupees One Lakh Seventy Two Thousand Eighty Four only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.

9. The above order is passed only in respect of contraventions of para 8, 9(1)(A) and 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Date: June 29, 2017

**Compounding Authority**

**Sd/-**

**(S. V. Nadkarni)**  
**General Manager**