



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

Shri. G P Borah
Chief General Manager

Date: August 02, 2017

C.A. No. 688/2017

In the matter of

M/s Affle (India) Pvt. Ltd.
402, 4th Floor, Akruti Orion
Shraddhanand Road, Vile Parle (East)
Mumbai 400057

(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

1. The applicant has filed the compounding application dated March 29, 2017 (received at the Reserve Bank on March 31, 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) delay in reporting receipt of foreign inward remittance towards subscription to equity; (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; and (iii) delay in issuance of equity instruments to the foreign investor, a person resident outside India beyond the prescribed time period of 180 days from the receipt of the inward remittance in terms



of paragraphs 9(1)(A), 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 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 August 18, 1994 under the Companies Act, 1956 as Tejus Securities Pvt. Ltd. The name of the Company was changed to Affle (India) Pvt. Ltd. on September 29, 2006. It is engaged in the business of delivery of Mobile Information Solutions to Mobile Phone Subscribers across different Mobile Phone Operators, to sell advertising space which would be delivered to Mobile Phones/other connected devices, to create/source content which would be show cast on the Mobile Phone/other connected devices, to create solutions which would add value to the user experience on Mobile Phones/other connected devices. The applicant received foreign inward remittance from M/s Affle Ltd, United Kingdom; M/s Affle Appstudioz Pte Ltd, Singapore; M/s Affle Pte Ltd, Singapore; and M/s Affle Holdings Pte Ltd, Singapore towards equity / preference share capital and reported the same to the Reserve Bank as indicated below.

Sr. No.	Total Amount in INR	Date of Receipt of Remittance	Reporting Date
1	96,60,200	02.01.2007	19.03.2008
2	8,75,600	22.02.2007	23.02.2009
3	63,35,050	15.03.2007	
4	12,01,800	10.07.2007	
5	20,00,500	31.07.2007	
6	8,65,920	27.09.2007	
7	13,62,200	07.11.2007	
8	7,81,000	18.12.2007	
9	13,61,850	18.01.2008	
10	20,39,960	28.02.2008	
11	11,58,800	02.05.2008	
12	1,41,229	02.05.2008	
13	1,41,229	02.05.2008	
14	1,46,903	06.05.2008	



15	1,46,903	06.05.2008	23.02.2009	
16	1,46,903	06.05.2008		
17	81,60,750	14.05.2008		
18	18,74,000	19.12.2008	17.05.2014	
19	16,77,200	23.12.2008		
20	20,55,300	29.01.2009		
21	25,43,500	17.03.2009		
22	25,43,500	18.03.2009		
23	24,75,630	31.07.2009		
24	23,40,576	11.09.2009		
25	23,03,500	12.10.2009		
26	23,03,500	12.10.2009		
27	20,20,950	11.03.2010		
28	20,20,950	15.03.2010		
29	19,61,660	30.07.2010		
30	48,80,000	12.10.2011		11.11.2011
31	48,80,000	12.10.2011		11.11.2011
32	1,21,07,900	14.11.2011	10.12.2011	
33	5,17,00,000	22.11.2011	10.12.2011	
34	41,63,260	28.02.2012	18.04.2012	
35	34,88,000	13.08.2012	18.12.2013	
36	21,80,000	24.08.2012	18.10.2012	
37	21,78,000	29.08.2012	18.10.2012	
38	21,76,000	30.08.2012	18.12.2013	
39	21,91,500	04.09.2012	18.10.2012	
40	55,48,129	22.11.2012	11.06.2013	
Total	15,81,39,852			

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above and with a delay ranging from 14 days to 5 years 3 months 29 days approximately beyond the stipulated time of 30 days in respect of remittances recorded at serial nos. 1 to 29 and 34 to 40 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	Amount in Rupees	Date of allotment	Reported to RBI on
1	9,66,020	96,60,200	19.03.2008	20.11.2008
2	73,56,790	7,35,67,900	19.03.2012	27.03.2012
3	4,16,326	41,63,260	14.08.2012	24.08.2012
4	12,21,350	1,22,13,500	08.01.2013	29.01.2013
5	5,54,813	55,48,130	15.05.2013	11.06.2013
6	22,56,906	2,25,69,060	30.03.2015	10.04.2015
7	24,98,463	2,49,84,630	30.03.2015	10.04.2015
8	5,43,316	54,33,160	30.03.2015	10.04.2015
Total		15,81,39,840		

The applicant filed form FC-GPRs as indicated above with a delay of 7 months 2 days approximately beyond the prescribed limit in respect of allotment indicated at Sr. No. 1 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. 15,81,39,852/- in 40 tranches and allotted shares in 6 tranches. The Company has issued shares for Rs. 5,29,86,863/- beyond the prescribed time period of 180 days, after obtaining specific approval from the Reserve Bank of India. The delay in allotment of shares ranges from 3 months 13 days to 4 years 4 month 28 days approximately from the date of receipt of inward remittances. 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 e-mail dated July 12, 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 July 17, 2017 during which Mr. Anuj Kumar (Co-Founder & Managing Director) and Mr. Kapil Bhutani (Executive Director-Finance) represented the applicant in the cabin of Shri G. P. Borah, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. 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 made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

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. 5,29,86,863/- and the duration of the contravention is ranging from 3 months 13 days to 4 years 4 month 28 days.



(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. 8,45,71,952/- and the duration ranging from 14 days to 5 years 3 months 29 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. 96,60,200/- with a delay of 7 months 2 days 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. 4,60,266/- (Rupees Four Lakh Sixty Thousand Two Hundred Sixty Six only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 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 Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 4,60,266/- (Rupees Four Lakh Sixty Thousand Two Hundred Sixty Six 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.



FED, MRO
M/s Affle (India) Pvt. Ltd.
C.A. No.688/2017

9. The above order is passed only in respect of contraventions of paragraph 8, 9(1)(A) and 9(1)(B) of Schedule I 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: August 02, 2017

Compounding Authority

Sd/-

(G. P. Borah)
Chief General Manager