



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: August 23, 2017  
C.A. HYD 207

In the matter of

M/s. Pena4 Tech Solutions India Private Limited  
D No. 1-84-15, 1<sup>st</sup> Floor  
Dr. Challa Chambers, Sector-4  
MVP Colony, Visakhapatnam  
Andhra Pradesh 530017

**(Applicant)**

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

**Order**

The applicant has filed the compounding application dated April 19, 2017 received on April 25, 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 remittances; (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares towards subscription to equity to a person resident outside India in terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 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 3rd May 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:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 05.05.2011 (Registration no. U72300AP2011PTC074304). The company is engaged in the business of medical coding, auditing services, software/IT services and data processing services.
- b) The applicant had received foreign inward remittances from a single foreign investor towards advance for subscription to equity shares as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt of inward remittance	Date of Reporting
1	Manuel Pena	4002592	11.01.2012	30.05.2014
2	Manuel Pena	2328892	22.05.2012	30.05.2014
3	Manuel Pena	2487947	05.06.2012	09.01.2015
4	Manuel Pena	2478049	30.08.2012	09.01.2015
5	Manuel Pena	3751936	02.11.2012	30.05.2014
6	Manuel Pena	4013799	06.12.2012	30.05.2014
7	Manuel Pena	1740192	08.01.2013	30.05.2014
8	Manuel Pena	337470	04.03.2013	30.05.2014
9	Manuel Pena	4825627	28.03.2013	17.09.2014
	<b>Total</b>	<b>2,59,66,504</b>		

The applicant reported receipt of remittances towards share subscription amounting to **Rs. 2,59,66,504** /- to the Regional Office of Reserve Bank of India with a delay ranging from 1 year 1 month 26 days to 2 years 6 months 4



days approximately as indicated 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.

- c) The company allotted equity shares and filed form FC-GPRs as indicated below.

Sl No	Name of investor	Date of allotment of shares	Number of shares/CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Manuel Pena	11.01.2012	49999	499990	20.11.2014
2	Manuel Pena	26.06.2012	448576	5831488	25.11.2014
3	Manuel Pena	03.09.2012	382000	4965987	20.02.2015
4	Manuel Pena	22.01.2013	731225	9505925	25.11.2014
5	Manuel Pena	20.07.2013	25959	337467	11.12.2014
6	Manuel Pena	22.07.2013	371202	4825626	20.02.2015
	<b>Total</b>		<b>2008961</b>	<b>2,59,66,483</b>	

The applicant filed form FCGPRs for the allotment of shares amounting to **Rs. 2,59,66,483 /-** as indicated above with a delay ranging from 1 year 3 months 21 days to 2 years 9 months 9 days approximately beyond the prescribed limit. 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/316/14.66.003/2017-18 dated August 09, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on August 11, 2017 during which Ms. Shaik Nazia, Company Secretary and Ms. Pooja, Practicing Company Secretary represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not willful or with a malafide intention and was on account of inadvertence and un-intentional reasons. In view of the foregoing, the representative of the applicant requested to take a lenient view 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 the submissions made in this context by the applicant during the personal hearing.

4. 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) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to Rs. 2,59,66,504/- and the delay ranges from 1 year 1 month 26 days to 2 years 6 months 4 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of



Rs. 2,59,66,483 /- and the period of contravention ranges from 1 year 3 months 21 days to 2 years 9 months 9 days approximately.

5. 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 contravention is to be compounded and I consider that an amount of Rs. 1,42,430/- (Rupees One Lakh Forty Two thousand Four Hundred Thirty Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1) (A) and paragraph 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. 1,42,430/- (Rupees One Lakh Forty Two thousand Four Hundred Thirty Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 23<sup>rd</sup> day of August 2017

Sd/-

(R. Subramanian)  
Regional Director



Compounding of contraventions under FEMA 1999  
M/s. Pena4 Tech Solutions India Private Limited.  
CA No HYD 207