



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

N.Mohana
General Manager

Date: August 31, 2017
C.A.693/2017

In the matter of

M/s. Drivestream India Pvt Ltd.
(formerly Curvet Technologies Pvt Ltd.)
Bahwan IT Park, 4th Floor, No.148,
Rajiv Gandhi Salai, Okkiyam, Thoraipakkam,
Chennai-600 097.

(Applicant)

In exercise of the powers 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 July 07, 2017 (received at Reserve Bank on July 11, 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



M/s. Drivestream India Pvt Ltd.– C.A.693/2017

of Form FC-GPR on allotment of shares with Reserve Bank and (ii) allotment of shares prior to receipt of full consideration, 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 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 July 26, 2002 under the provisions of the Companies Act, 1956 (Registration No: U72200TN2002PTC049329) and is engaged in the business of providing software support and maintenance to the clients. The company had received a foreign Inward remittance of ₹ 2,00,000/- on 21.02.2003 for allotment of equity shares. But the consideration for the shares was not received through prescribed channel. The company was advised to unwind the transaction and bring in the amount through proper banking channel. Accordingly, the company received an inward remittance amounting to ₹ 2,11,629/- on 11.05.2017 and reported the same to Reserve Bank within the stipulated period of 30 days.

3. The company allotted equity shares (one fresh and 3 Bonus allotments) and filed FC-GPRs as indicated below:

Sl. No.	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	19900	10	1,99,000	03.03.2003	12.04.2017
2	79200	10	7,92,000	15.06.2005	12.04.2017
3	148500	10	14,85,000	12.12.2007	12.04.2017
4	748500	10	74,85,000	30.03.2013	12.04.2017

The applicant filed form FC-GPR as indicated above with delay ranging from three years 11 months 12 days to 14 years nine days approximately beyond the prescribed limit in respect of allotment. 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



M/s. Drivestream India Pvt Ltd.– C.A.693/2017

with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company has allotted 19900 shares of Rs. 10/- each amounting to ₹ 1,99,000/- on 03.03.2003. The consideration was brought in by way of inward remittance (after unwinding the earlier remittance received) as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment of shares
1.	11.05.2017	1,99,000	03.03.2003

The consideration was brought in with delay of 14 years two months eight days. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant vide letter dated August 28, 2017 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 3 and 4 above for which compounding has been sought. It had been submitted that the delays were unintentional. 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) Paragraph 9 (1) B of Schedule 1 to Notification No.FEMA 20/2000-RB due to 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 ₹ 99,61,000/- with delay ranging from three years 11 months 12 days to 14 years nine days approximately; and



M/s. Drivestream India Pvt Ltd.– C.A.693/2017

(b) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with para 5 of AP (DIR Series) Circular No.20 dated December 14, 2007 due to allotment of shares prior to receipt of consideration. The contravention relates to an amount of ₹ 1,99,000/- with the duration of contravention being 14 years two months eight 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 **₹1,18,448/-** (Rupees one lakh eighteen thousand four hundred and forty eight only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) B and 8 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 **₹1,18,448/-** (Rupees one lakh eighteen thousand four hundred and forty eight only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 Thirty First day of August, 2017.

Sd/-

N.Mohana
General Manager