



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

A.K. Choudhary
Chief General Manager

Date: September 1, 2017
C.A. 055/2017

In the matter of

M/s Oppo Mobiles West Bengal Private Limited
1st Floor, Dongfang Electric Building,
Block A, Plot No. AH/5,AA-1A,
Premises No.16-1111,
New Town, Rajarhat,
Kolkata – 700 156.

(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 May 18, 2017 (received at Reserve Bank on May 19, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in submission of form FC-GPR to the Reserve Bank on allotment of shares to a person resident outside India beyond the stipulated 30 days in terms of paragraph 9(1)(B) 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 3rd, 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 was originally incorporated under the Companies Act, 1956 on May 19th, 2015 as M/s Hongtu Mobiles Private Limited which was changed to M/s Oppo Mobiles West Bengal Private Limited on August 5th, 2016. The main objective of the applicant is wholesale of “OPPO” mobiles phones and related products as manufactured and produced by “OPPO”. The applicant received foreign inward remittances from foreign investor namely Shri Li Nan, China towards subscription to equity shares as tabulated below:

S.No	Amount of foreign inward remittance (INR)	Date of receipt	Date of reporting to RBI
1	8,50,000	03.12.2015	18.12.2015
2	2,00,00,000	08.01.2016	22.01.2016
3	2,85,00,000	04.02.2016	19.02.2016
Total	4,93,50,000		

The applicant reported receipt of advance remittances amounting to Rs 4,93,50,000/- to Kolkata Regional Office of Reserve Bank on the above mentioned dates within the prescribed limit in respect of remittances. 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 applicant allotted 49,35,000 equity shares and filed FC-GPRs as indicated below:

S.No	No. of shares	Face Value (INR)	Amount for which shares issued (INR)	Date of allotment of shares	Reported to RBI on
1	85,000	10	8,50,000	14.12.2015	22.01.2016
2	20,00,000	10	2,00,00,000	25.01.2016	16.06.2016
3	28,50,000	10	2,85,00,000	10.02.2016	16.06.2016
Total	49,35,000		4,93,50,000		



The applicant filed Form FC-GPRs with a delay ranging from eight days to three months twenty-two days approximately beyond the prescribed limit in respect of allotments indicated at Sr. No. 1, 2 and 3. 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 applicant allotted 49,35,000 equity shares for a face value of Rs.10/- per share across three tranches for the three foreign inward remittances to foreign investor within the stipulated period from receipt of foreign inward remittances, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as per which an Indian company has to issue shares within 180 days from receipt of foreign inward remittances.

5. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No.KOL.FED.FID.358/03.40.221/2017-18 dated August 30, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant represented by Shri Arup Dasgupta, Chartered Accountant appeared for personal hearing on September 1, 2017. The authorized representative of the applicant admitted the contravention for which compounding has been sought and submitted that the delay was not willful or with a malafide intention.

The representative 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 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 provision 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 as detailed in paragraph 3 above. The contravention



relates to an amount of Rs. 2,85,00,000/- and the period of contravention is three months six 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 contravention is to be compounded and I consider that an amount of **Rs 26,700/- (Rupees Twenty six Thousand Seven Hundred only)** will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of 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 Proceeding) Rules, 2000 on payment of an amount **Rs 26,700/- (Rupees Twenty six Thousand Seven Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Third Floor, 15 N.S. Road, Kolkata- 700 001 by a demand draft drawn in favour of "Reserve Bank of India" and payable at "Kolkata" 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 Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Dated this the first day of September, 2017.

Sd/-

(A.K. Choudhary)

Chief General Manager