



In the

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

Present

R. Subramanian
Regional Director

Date: October 25, 2017
C.A. HYD 232

In the matter of

M/s. Atum IT Services India Private Limited
D No. 1-55-199
Botanical Garden Road, Kondapur
Serilingampally Municipality
Hyderabad-500084
Telangana

(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 August 01, 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 and (iii) neither the equity instrument were issued nor amount refunded to the person resident outside India in terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) and Paragraph 8 respectively



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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 originally incorporated as ERP and ERP India Private Limited Company under the Companies Act, 1956 on 19.12.2010 and later changed its name to Atum IT Services India Private Limited with effect from 10.04.2013 (CIN: U72900TG2010PTC071586). The company is engaged in the business of computer programming, consultancy and related services.
- b) The applicant had received foreign inward remittances from four foreign investors towards advance for subscription to equity shares as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Vikram Veerapaneni	31738	24.01.2011	02.04.2011
2	Srinivas R Yalla	44659	24.01.2011	02.04.2011
3	ERP & ERP Corp, USA	1825526	03.10.2012	12.12.2013
4	ERP & ERP Corp, USA	1096188	02.11.2012	12.12.2013
5	ERP & ERP Corp, USA	1071000	02.11.2012	12.12.2013
6	ERP & ERP Corp, USA	2479500	29.11.2012	12.12.2013
7	ERP & ERP Corp,	880000	06.12.2012	12.12.2013



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	USA			
8	ERP & ERP Corp, USA	1367000	31.12.2012	12.12.2013
9	ERP & ERP Corp, USA	2157347	30.10.2012	12.12.2013
10	ERP & ERP Corp, USA	1491044	03.01.2013	12.12.2013
11	ERP & ERP Corp, USA	2170130	31.01.2013	12.12.2013
12	ERP & ERP Corp, USA	572878	08.02.2013	12.12.2013
13	ERP & ERP Corp, USA	1331983	04.03.2013	12.12.2013
14	Neelima Pedarla	84574	03.07.2015	22.07.2015
	Total	16603567		

The applicant received remittances from overseas investor and reported remittances amounting to ₹ 1,66,03,567 /- to the Regional Office of Reserve Bank of India during the period from 24.01.2011 to 03.07.2015 as indicated above out of which remittances amounting to ₹ 1,65,18,993 /- were reported with delays ranging from 1 month 7 days to 1 year 1 month 9 days approximately beyond the prescribed period of 30 days. 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 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	Srinivas R Yalla	03.03.2011	4000 Eq	40000	04.04.2011



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2	Vikram Veerapaneni		3000 Eq	30000	
3	ERP & ERP Corp	01.12.2014	1080 CCDS	16442596	31.12.2014
4	Neelima Pedarla	09.07.2015	845 Eq	84500	13.08.2015
	Total			16597096	

The applicant filed form FCGPRs for issue of shares amounting to ₹1,65,97,096/- out of which shares amounting to ₹ 1,54,500/- as indicated above were reported with delays ranging from 2 days to 5 days approximately beyond the stipulated period of 30 days. 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.

e. The company has delayed in allotment of shares beyond the stipulated period of 180 days in respect of remittances aggregating to ₹ 1,64,42,596 /- and the delay ranges from 1 year 2 months 27 days to 1 year 7 months 28 days approximately .

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of allotment
1	ERP & ERP Corp, USA	1825526	03.10.2012	01.12.2014
2	ERP & ERP Corp, USA	1096188	02.11.2012	01.12.2014
3	ERP & ERP Corp,	1071000	02.11.2012	01.12.2014



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	USA			
4	ERP & ERP Corp, USA	2479500	29.11.2012	01.12.2014
5	ERP & ERP Corp, USA	880000	06.12.2012	01.12.2014
6	ERP & ERP Corp, USA	1367000	31.12.2012	01.12.2014
7	ERP & ERP Corp, USA	2157347	30.10.2012	01.12.2014
8	ERP & ERP Corp, USA	1491044	03.01.2013	01.12.2014
9	ERP & ERP Corp, USA	2170130	31.01.2013	01.12.2014
10	ERP & ERP Corp, USA	572878	08.02.2013	01.12.2014
11	ERP & ERP Corp, USA	1331983	04.03.2013	01.12.2014
	Total	16442596		

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 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/687/14.66.003/2017-18 dated October 20, 2017 for



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further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide letter dated October 20, 2017 stated that they are foregoing appearing for the optional personal hearing and requested the disposal of the compounding application based on the documents submitted along with the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

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 units amounting to ₹1,65,18,993 /- and the delay ranges from 1 month 7 days to 1 year 1 month 9 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 ₹ 1,54,500 /- and the period of contravention ranges from 2 days to 5 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB for delay in allotment of units and the contravention relates to an amount of ₹ 1,64,42,596 /- and the delay ranges from 1 year 2 months 27 days to 1 year 7 months 28 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



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take a lenient view on the amount for which the contravention is to be compounded and I consider that an amount of Rs. 1,32,034/- (Rupees One Lakh Thirty Two Thousand Thirty Four Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1) (A), Paragraph 9 (1) (B) and Paragraph 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 Rs. 1,32,034/- (Rupees One Lakh Thirty Two Thousand Thirty Four 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 25th day of October 2017

Sd/-

(R. Subramanian)
Regional Director