



In the

Reserve Bank of India
10/3/8, Nrupathunga Road,
Bengaluru-560001

Present

Shri. Eugene E Karthak
Regional Director

Date: September 28, 2017
C.A. BGL 234/2017

In the matter of

M/s. Sifang Automation India Private Limited
S512-514, Manipal Centre
#47, Dickenson Road
Bengaluru 560 042
(Applicant)

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

ORDER

The applicant has filed a compounding application dated May 15, 2017, received at this Office on May 17, 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 reporting receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A) and 9(1)(B), 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 03, 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: M/s. Sifang Automation India Private Limited, was incorporated on July 24, 2015, under the Companies Act, 2013. The Company is mainly engaged in R & D, manufacture and sale of power system automation, relay protection, power system security and stability control, HVDC transmission control, dispatching automation, distribution automation, power simulation, rail transportation for electric power system and related process industries such as petrochemical, railway, coal, metallurgy, etc. (NIC – 27900). The applicant had received funds towards share application money from foreign investors, namely, M/s Sifang (Hong Kong) Company Limited, China, and Mr. Xiaohua Zhao, USA, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD
1	02-11-2015	49,50,000.00	05-01-2016
2	16-12-2015	1,00,00,000.00	22-05-2016
3	25-05-2016	50,000.00	31-07-2016
4	01-07-2016	41,00,000.00	12-09-2016
5	13-07-2016	72,00,000.00	12-09-2016
6	11-08-2016	84,00,000.00	17-01-2017
7	21-09-2016	54,00,000.00	17-01-2017
8	05-10-2016	30,00,000.00	09-12-2016
9	08-11-2016	64,50,000.00	06-01-2017
	Total	4,95,50,000.00	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from twenty nine days to four months and seven days approximately, beyond the stipulated time of 30 days, in respect of all remittances indicated in the Table-1 above. Whereas, in terms of paragraph 9(1)(A) of Schedule I 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 and filed FC-GPRs with RBI/AD as indicated below:

Table-2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	04-12-2015	49,50,000.00	31-07-2016
2	16-12-2015	1,00,00,000.00	31-07-2016
3	01-07-2016	50,000.00	14-01-2017
4	29-08-2016	41,00,000.00	14-01-2017
5	29-08-2016	72,00,000.00	14-01-2017
6	29-08-2016	84,00,000.00	25-01-2017
7	19-10-2016	54,00,000.00	26-01-2017
8	19-10-2016	30,00,000.00	14-01-2017
9	21-11-2016	64,50,000.00	26-01-2017
	Total	4,95,50,000.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one month five days to six months twenty eight days, approximately, beyond the prescribed period of 30 days, in respect of all allotments, indicated in the Table-2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA.20/2000-RB dated May 3, 2000, 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.FE.BG.FID (CEFA) No.965/22.10.043/2017-18 dated



September 26, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on September 28, 2017. Shri R Saravana Kumar, Deputy Manager, Finance and Accounts, represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention but was mainly due to inadvertence, and the same will not be repeated. In view of the above, he 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 as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

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

- (a) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards subscription to equity, as detailed in paragraph 2 above. The contravention relates to an amount of **Rs. 4,95,50,000.00**, and the period of delay ranges from twenty nine days to four months and seven days, approximately; and
- (b) Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares, to persons resident outside India. The contravention relates to an amount of **Rs. 4,95,50,000.00**, and the period of delay ranges from one month five days to six months twenty eight days, approximately.

6. 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. 93,640.00 (Rs. Ninety Three Thousand Six Hundred and Forty only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I 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. 93,640.00 (Rs. Ninety Three Thousand Six Hundred and Forty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru, 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, the Twenty-eighth day of September, 2017.

(Eugene E Karthak)
Regional Director