



In the

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

Present

**Shri. Eugene E Karthak**  
**Regional Director**

Date: November 28, 2017  
**C.A. BGL 244/2017**

In the matter of

**M/s Axcend Automation & Software Solutions Private Limited**  
No.82/1, 3<sup>rd</sup> and 4<sup>th</sup> Floor  
Krishna Towers, Richmond Road  
Bengaluru 560 025  
**(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 June 12, 2017, received at this office of Reserve Bank of India, Bengaluru on July 13, 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-GPRs to the Reserve Bank after issue of shares to a person resident outside India, in terms of Paragraph 9(1)(B) 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 Axcend Automation & Software Solutions Private Limited, was incorporated on May 05, 2004, under the Companies Act, 1956. The Company is mainly engaged in the business of publishing of operating systems and system software. The applicant had received funds towards share application money from foreign investor, namely, M/s Acrodex INC, Canada, as shown below:

**Table-1**

Sl. No	Date of receipt	Amount (INR)	Date of Reporting to RBI/AD
1	14-06-2004	3,71,754.01	26-07-2004
2	07-07-2004	3,432.28	26-07-2004
3	09-07-2004	6,75,000.00	02-08-2004
4	14-07-2004	40,08,576.00	02-08-2004
5	16-11-2004	24,72,492.34	16-12-2004
	<b>Total</b>	<b>75,31,254.63</b>	

Further, the company had availed External Commercial Borrowings (ECB) from the parent company M/s Axcend Global Partners LLC, Canada, on various dates between 2005 and 2008. The ECB was fully converted to equity amounting to **Rs. 2,07,81,232.86**, on March 05, 2012.

3. The company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD Bank as indicated below:

**Table-2**

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	18-06-2004	3,75,000.00	26-07-2004
2	26-07-2004	46,83,500.00	26-07-2004
3	25-11-2004	24,41,500.00	03-12-2004
4	05-03-2012	2,07,81,232.86	16-06-2016
	<b>Total</b>	<b>2,82,81,232.86</b>	



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 eight days to four years, two months and twelve days approximately, beyond the prescribed period of 30 days, in respect of allotments as indicated at serial numbers 1 and 4 in 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.1649/22.05.975/2017-18 dated November 27, 2017, for further submission, in person and/or producing documents, if any, in support of the application. The applicant's authorized representative Ms. Nagamani S, Senior Manager-Finance, who appeared for the personal hearing on November 28, 2017, admitted the contraventions as stated in paragraph 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 would not be repeated. In view of the above, she 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)(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. 2,11,56,232.86**, and the period of delay ranges from eight days to four years, two months and twelve 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 contravention is to be compounded, and I consider that an amount of **Rs. 2,22,580.00 (Rupees Two Lakh Twenty Two Thousand Five Hundred and Eighty only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **Rs. 2,22,580.00 (Rupees Two Lakh Twenty Two Thousand Five Hundred and Eighty only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> 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 November, 2017.

Sd/-

**(Eugene E Karthak)**  
**Regional Director**