

kcmSnips

FEMA

January 02, 2024

Applicable FEMA Provisions

Foreign Exchange Management (Current Account Transaction) Rules, 2000 read along with Master Direction on Import & Export of Goods & Services.

Type of Contravention

Setting off services related Import payables against Export receivables without prior approval from AD Bank / Reserve Bank of India ('RBI').

Operational Impact

- Caution listing of Exporter / Importer thereby hampering future business operations.
- Holding up of future FDI & ODI transactions if Company comes under investigation by RBI / DoE / CBI etc.

Penal Action

- Compounding of Contraventions by RBI with Penalty
- Enquiry by Directorate of Enforcement / CBI / SFIO with Penalty and/or Imprisonment.

Compounding Order

Solarwinds India Pvt. Ltd. ("The Company") & Reserve Bank of India, Foreign Exchange Department, Mumbai vide Compounding Order No. C.A. No. 3952/2016 Dt. September 14, 2016.

The Company had set-off services related import payables against export receivables without prior approval and had outstanding Trade Payables beyond three years.

Contravention of Regulations 3, 4 and 5 of Notification No. FEMA.14/2000-RB dated May 03, 2000;

Contravention of Regulation 6 (3), read with Paragraphs 1 and 2 of Schedule III of Notification No.FEMA.3/2000-RB dated 3rd May 2000 as amended from time to time.

RBI's stance was that the Company was obligated to pay full value of services availed and had to receive full export value of services provided.

**Compounding Penalty levied for
₹ 2,34,105**

This document is prepared exclusively for the benefit and use of member firms of KCM Network and their clients. For further analysis and discussion, you may please reach out to our regulatory experts, Ms. Darshana Mankad at darshana.mankad@kcmehta.com and Mr. Nitin Dingankar at nitin.dingankar@kcmehta.com.