



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office Cell, 2nd Floor
6, Sansad Marg
New Delhi - 110 001

Present

Madhu Dwivedi
Assistant General Manager

Date: May 20, 2019

C.A. No.93 /2019

In the matter of

Mr Jayant Nanda

16, Ring Road,

Lajpat Nagar – IV

New Delhi - 110024

In exercise of the powers under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations / Rules / Notifications / Orders made thereunder, I pass the following:

Order

The applicant Mr Jayant Nanda, has filed an application dated November 1, 2018 (received in RBI on November 22, 2018) for compounding of contraventions of the provisions of Foreign Exchange Management Act, 1999 (the FEMA) and the Regulations issued thereunder. The contravention sought to be compounded relate to acquisition of immovable properties (agricultural land) in India by an NRI without RBI permission, in contravention of the provisions under Regulation 8 of Notification No. FEMA.21 /2000-RB dated May 03, 2000, as amended from time to time, read with



Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000. (hereinafter referred to as FEMA 21 *ibid.*).

2. The brief facts of the case are as follows:

a. Mr Jayant Nanda is a Non-resident Indian since 1990. He has acquired six pieces of agricultural land in Gujarat between September 11, 2003 and October 19, 2007 by way of purchase without obtaining prior permission of Reserve Bank of India.

b. The details of the property are as follows:

Revenue & other Details	Area	Amount
1. Survey no. 272, Village Nani Chirai, Taluka Bhachau, District Gandhidham, Gujarat.	13355.10 sq.mt	Cost of Acquisition – ₹2,00,000/-
2. Survey no. 169/45, Sim of village Dhab, Taluka Mundra, District Kutch, Sub District Mundra Gujarat.	10117.50 sq.mt	₹ 75,000/-
3. Survey No. 211 Village Bed, Jamnagar- Dhwaraka Highway, Taluka Jamnagar, Gujarat.	25698.45 sq.mt	₹ 4,00,000/-
4. Survey No. 264/2, Village Bed Dhwaraka Highway, Dist. Jamnagar, Gujarat.	4047 sq. mt.	₹1,25,000/-
5. Survey No. 264/3, Village Bed Dhwaraka Highway,		



Dist. Jamnagar, Gujarat.	4047 sq.mt	₹ 1,25,000
6. Survey No. 252/1, Village Bed Dhwarka Highway, Dist. Jamnagar, Gujarat.	253 sq. mt	₹ 50,000
		Total of ₹ 9,75,000/-

c. The aforesaid agricultural properties in Gujarat were acquired by Mr Jayant Nanda for a total consideration of ₹ 9,75,000/- (Nine lakh seventy five thousand only) i.e. ₹2,00,000/-+ ₹ 75,000/- +₹ 4,00,000/- + ₹ 1,25,000 + ₹1,25,000/- + ₹ 50,000. Mr Jayant Nanda being an NRI was not eligible to purchase agricultural land in India without Reserve Bank permission. Hence, the abovementioned acquisition of agricultural land without Reserve Bank's permission amounts to contravention of Regulation 8 of Notification No. FEMA 21/2000-RB dated May 03, 2000, as amended from time to time read with Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000.

d. Regulation 8 of Notification No. FEMA-21/2000-RB ibid. states that save as otherwise provided in the Act or Regulations, no person resident outside India shall transfer any immovable property in India, provided that the Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary.

e. Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000 states that a person resident outside India who is a citizen of India may acquire any immovable property in India other than agricultural / plantation / farm house.

f. In view of the above, he was advised to sell the immovable property vide RBI letter No. FED.CO.ND(IP)34/10.51.000/2018-19 dated July 16, 2018, to a person resident in India who is citizen of India, within six months from the date of the letter,



not to repatriate sale proceeds of the property without prior approval of the RBI and approach RBI for compounding of the contravention.

g. Subsequently, the applicant vide letter dated July 31, 2018 requested us to grant permission to transfer the immovable property to person/s resident in India who is citizen of India and the permission for the same was conveyed vide RBI letter No. FED.CO.ND(IP)230/10.51.000/2018-19 dated September 20, 2018.

h. The properties under reference has been transferred to Mrs. Anita Jayant Nanda, vide settlement deed executed on October 3, 2018.

i. The contravention has been regularized vide our letter No. FED.CO.ND(IP)230/10.51.000/2018-19 dated September 20, 2018 subject to compounding of contravention.

j. The purchase transactions took place on September 11, 2003, March 18, 2004, August 29, 2006, October 18, 2007 and October 19, 2007 and the properties were transferred on October 3, 2018. The period of contravention, therefore, has been considered with effect from September 11, 2003 to October 3, 2018 i.e. 15 years and 22 days.

3. The applicant has contravened the Regulation 8 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 notified vide Notification No. FEMA.21/2000-RB dated 3rd May 2000, as amended from time to time, read with Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000. Regulation 8 of FEMA 21 ibid states that save as otherwise provided in the Act or Regulations, no person resident outside India shall transfer any immovable property in India, provided that the Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary.

Further, Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000 states that a person resident outside India who is a citizen of India may acquire any immovable property in India other than agricultural / plantation / farm house.

In the instant case, the applicant being a NRI has purchased six agricultural properties in India without prior approval of Reserve Bank. The aforementioned contraventions



have been regularized by RBI letter No. FED.CO.ND(IP)230/10.51.000/2018-19 dated September 20, 2018 subject to compounding of contraventions.

4. The applicant was given an opportunity for personal hearing vide email/letter dated April 15, 2019 for further submission in person and /or producing documents, if any, in support of the application. Applicant's representatives Mr. Rakesh Kumar Khanna, Mr. Akash Khandelwal and Mr. Dheeraj appeared representing the applicant, for the personal hearing on April 16, 2019. The representatives of the applicant admitted the contraventions committed by the applicant for which he has sought compounding and submitted that the contravention was not intentional and requested to take a lenient view.

5. It has been declared in the compounding application dated November 1, 2018 that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. It has been declared in the undertaking furnished with the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against him thereafter. Accordingly, the above contraventions which are being compounded in this order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect. The application for compounding is, therefore, being decided on the basis of the averments/submission made in the application as well as other documents and also submissions made in this context by the representatives of the applicant during the personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened Regulation 8 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 *notified vide* Notification No. FEMA.21/2000-RB dated May 3, 2000, as amended from time to time, read with Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000.



7. In terms of Section 13 of the FEMA, 1999, 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 and after considering the submissions made by the applicant and the entire facts and circumstances of the case, I consider that payment of an amount of ₹ 29,25,000/- (Rupees Twenty nine lakh twenty five thousand only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound the admitted contraventions namely the contravention of Regulation 8 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 *notified vide* Notification No. FEMA.21/2000-RB dated May 3, 2000, as amended from time to time, read with Regulation 3(a) of Notification No. FEMA.21 /2000-RB dated May 03, 2000, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 29,25,000/- (Rupees Twenty nine lakh twenty five thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 2nd Floor, 6, Sansad Marg, New Delhi – 110 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Delhi 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 03, 2000, as amended from time to time, shall apply.

The application is disposed accordingly.

Dated this the twentieth day of May, 2019.

Madhu Dwivedi
Assistant General Manager