



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

K Dhamodhiran
Assistant General Manager

Date: September 20, 2019
C.A. 950/2018

In the matter of

Mr. Pratheesh Kumar
C/o Contracting Plus Solutions Pvt Ltd., No.IV/588-AD
Cemetery Road, Next to Indian Bank, Mahe
Pondicherry – 673 310

(Applicant)

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

Order

The applicant has filed a compounding application dated July 22, 2019 (received at Reserve Bank on August 13, 2019) 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 reporting the transfer



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of shares i.e., delay in submission of FC-TRS in terms of Regulation 10A (b)(i) read with Paragraph 10 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 3, 2000 and as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB)

2. The relevant facts of the case are as follows: The applicant, a Non- Resident Indian (NRI) by name Mr. Pratheesh Kumar, is a shareholder on non-repatriable basis in M/s. Contracting Plus Solutions Pvt Ltd., a private limited company incorporated under the Companies Act, 1956 on July 23, 2008 with CIN U72900PY2008PTC002197.

3. The applicant sold 2400 equity shares of ₹100/- each at a negotiated price of ₹100/- to the Non-Resident, Mr.Fergal Seamus Lennon, Ireland. The applicant reported the transfer in Form FC-TRS to the Authorised Dealer bank as detailed below:

No of Shares	Negotiated Price ₹	Amount Involved (₹)	Date of transaction	Date of filing FC TRS with AD
2400	100.00	2,40,000.00	01.11.2012	04.12.2018

The applicant filed the Form FC TRS on the date indicated above with a delay of five years 11 months four days approximately beyond the prescribed period of 60 days. Whereas in terms of Regulation 10A (b)(i) read with Paragraph 10 of schedule I to Notification No. FEMA 20/2000-RB and A.P.(DIR Series) Circular No.60 dated April 22, 2009 the form FC-TRS should be submitted to the AD Category – I bank within 60 days from the date of receipt of the amount of consideration. The onus of reporting is on the resident transferor / transferee or the person resident outside India holding capital instruments on a non-repatriable basis, as the case may be.

4. The applicant was advised about the contravention vide memorandum dated April 01, 2019. The applicant has filed a compounding application dated July 22, 2019. It has been declared in the compounding application that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. It



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has been declared in the declaration 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 it/him/her thereafter. Accordingly, the above contravention which is being compounded in this Order is 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.

5. The applicant vide letter dated July 22, 2019 has opted out of personal hearing. The applicant, in the compounding application, had admitted the contravention as stated in paragraph 3 above for which compounding has been sought. It is submitted that the delay was unintentional. In view of the above, the applicant has requested Reserve Bank to take a lenient view in the matter. 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

(a) Regulation 10A (b)(i) read with Paragraph 10 of schedule I to Notification No. FEMA 20/2000-RB, due to delay in filing Form FC-TRS with the Authorised Dealer as detailed in paragraph 3 above. The contravention relates to an amount of ₹2,40,000.00 and the duration of the contravention being five years 11 months four days approximately.

7. In terms of Section 13 of the FEMA, if any person contravenes any provision of the Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorization is issued by the Reserve Bank, he, upon adjudication, shall be liable to a penalty up to thrice the sum involved in such contravention. However, taking into account



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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 **₹16,000/-** (Rupees sixteen thousand only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 10A (b)(i) read with Paragraph 10 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 **₹16,000/-** (Rupees sixteen thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 twentieth day of September, 2019.

Sd/-
K Dhamodhiran
Assistant General Manager