



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11<sup>th</sup> Floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Madhusmita Dutta**  
**Assistant General Manager**

Date: February 12, 2020  
CA No 5047 / 2019

In the matter of

**Ajoy Kumar Bose**  
**12624 C HEVERLY CT. SARATOGA CA**  
**95070, USA**  
**(Applicant)**

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

### **Order**

The applicant has filed the application dated September 9, 2019 (received at the Reserve Bank on November 04, 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 are transfer of shares of M/s Atrenta (India) Private Limited from the applicant (NRI) to M/s Atrenta Inc. (NR) without prior approval of the Reserve Bank of India. The above amount to the contravention of Regulation 9(2)(ii) of 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, as amended from time to time (hereinafter referred to as Notification No. FEMA 20).

2. The relevant facts are as under:

(a) The applicant (NRI) was allotted 4,600 fully paid equity shares by M/s Atrenta (India) Private Limited, as part of subscription to the memorandum on May 26, 2001. Further, 80 fully paid equity shares were allotted on October 10, 2001 as further issue of shares. However, the applicant transferred 4,598 and 80 equity shares to M/s Atrenta Inc. on May 26, 2011 and October 17, 2001 respectively without obtaining prior approval of Reserve Bank of India which is a contravention of Reg 9 (2)(ii) of FEMA 20.

(b) In terms of Regulation 9 (2)(ii) of FEMA 20, 'a non-resident Indian may transfer by way of sale or gift, the shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle held by him or it to another non-resident Indian only'.

3. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA.No./3813/15.20.67/2019-20 dated January 23, 2020 for further submission in person and/or producing documents, if any, in support of the application. The applicant sought to be exempted from the personal hearing with the Compounding Authority vide email dated January 28, 2020. The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.

4. It has been declared in the compounding application dated September 09, 2019, 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 Annexure of the Compounding Application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application. 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.

5. I have given my careful consideration to the documents on record. It was observed that the applicant has contravened the provisions of Regulation 9(2)(ii) of Notification No. FEMA.20/2000-RB. The total amount of contravention is Rs. 46,780/- and period of contravention is sixteen years and five months 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 79,526/- (Rupees seventy nine thousand five hundred and twenty six only), will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 9(2)(ii) of Notification No.FEMA.20/2000-RB dated May 03, 2000, as amended from time to time, on payment of a sum of Rs. 79,526/- (Rupees seventy nine thousand five hundred and twenty six only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 the 12<sup>th</sup> of February, 2020

**Sd/-**  
**(Madhusmita Dutta)**  
**Assistant General Manager**