



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
Ashish Gogia
Assistant General Manager

February 20, 2019
CEFA.CO.ID.11465 / C.A. No. AHM - 121 / 2018-19

In the matter of

Ashwinkumar Joshi
8, Nilkanth Varni Society, B/h Union Bank of India, Vasna, Ahmedabad - 380007
Gujarat

(Applicant)

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



Order

The applicant has filed compounding application dated November 22, 2018 (received at Reserve Bank of India on November 26, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is delay in reporting of transfer of shares in Form FC-TRS from resident to non-resident beyond stipulated period of 60 days; in terms of Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 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 3rd May 2000 as then applicable and as amended from time to time.

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

The applicant, a resident individual by the name Shri Ashwinkumar Joshi, having PAN: ABKPJ5563C, address as 8, Nilkanth Varni Society, B/h Union Bank of India, Vasna, Ahmedabad – 380007 (Gujarat). The applicant has received foreign inward remittance amounting to ₹48,900/- from non-resident investor Corax Cyber Security Holdings limited, UK towards sale of equity shares of Corax Cyber Security Private Limited, Ahmedabad. The applicant reported the transfer of shares in Form FC-TRS from resident to non-resident to its Authorised Dealer bank with a delay of 563 days from the date of receipt of consideration/transfer of shares thereby contravening Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000 as then applicable.



3. Contravention under Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:

Sr. No.	Remitter	Date of share transfer	Amount of foreign inward remittance (₹)	Date of reporting to AD bank	Days delay excluding prescribed time of 60 days
1	Corax Cyber Security Holdings limited, UK	11-01-2017	48,900	26-09-2018	563

4. As indicated in the Table above, the applicant received foreign inward remittance amounting to ₹48,900/- from the foreign investor Corax Cyber Security Holdings limited, UK towards sale of equity shares of Corax Cyber Security Private Limited, Ahmedabad. The applicant reported the transfer of shares from resident to non-resident to its Authorised Dealer bank on September 26, 2018 with a delay of 563 days beyond the stipulated period of 60 days from the date of transfer of shares on January 11, 2017 in terms of Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Regulation 10 A (b) (i) of Notification No. FEMA 20/2000-RB states that, "A person resident in India who proposes to transfer to a person resident outside India not being erstwhile OCBs, any shares or convertible debentures or warrants of an Indian company under the Foreign Direct Investment Scheme, whose activities fall under Annex B to Schedule I, shall, subject to sectoral limits specified therein, transfer such shares or convertible debentures or warrants without prior approval of the Reserve Bank if the same is by way of sale, subject to the parties concerned adhering to the pricing guidelines, documentation and reporting requirements for such transfers, stipulated by the Reserve Bank from time to time."

Further, Paragraph 10 (i) of Schedule I of the abovementioned regulations specifies a time period of 60 days from the date of receipt or payment of the amount of consideration, within which the transferor/transferee, resident in India, shall submit a report in the Form FC-TRS.



Thus, the applicant has contravened the provisions of Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000 as then applicable.

5. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1198/06.04.15 (A) / CEFA / 2018-19 dated February 14, 2019 for further submission in person and / or producing documents, if any, in support of the application. The applicant vide his email dated February 15, 2019 has requested to dispose of his application on the basis of his compounding application and supporting documents submitted along with it. He has sought an exemption from personal hearing with the Compounding Authority and has admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the applicant and he deeply regretted the delay caused and has requested to take a lenient view. He has also stated that he is willing to accept any direction/ order of the Compounding Authority in connection with his compounding application.

6. The application for compounding is 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.

7. It has been declared in the compounding application dated November 22, 2018 (received at Reserve Bank of India on November 26, 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 it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. 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.

8. 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 the following FEMA provisions issued in terms of:

A) Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay of reporting the transfer of shares from resident to non-resident to its Authorised Dealer as detailed in paragraph 4 above. The amount of contravention involved is ₹48,900/- and the delay is 563 days.

9. 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 contraventions are to be compounded and therefore, I consider that amount of penalty of ₹3,863/- (Rupees Three Thousand Eight Hundred Sixty Three only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions, namely contravention of Regulation 10 A (b) (i) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 as then applicable, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹3,863/- (Rupees Three Thousand Eight Hundred Sixty Three only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad – 380 014 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 20th day of February, 2019.

Sd/-

(Ashish Gogia)

Assistant General Manager