



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380014

Present
Ashish Gogia
Assistant General Manager

April 16, 2019
CEFA.CO.ID.11543 / C.A. No. AHM - 123 / 2018-19

In the matter of

Chintan Patel

C – 904, Yash Complex, Gotri Road,
Vadodara – 390021 (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 December 27, 2018 (received at Reserve Bank of India on January 22, 2019) 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 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 is a resident individual by the name Shri Chintan Patel, having PAN: AMNPP9098A, residing at Venus – C – 904, Yash Complex, Gotri Road, Vadodara - 390021. The applicant has received one foreign inward remittance amounting to ₹50,000/- from non-resident investor Collabera INC., USA towards transfer of equity shares of Collabera Services Pvt. Ltd., Vadodara. The applicant reported the transfer of shares from resident to non-resident to its Authorised Dealer bank with a delay of 514 days beyond the prescribed period of 60 days from the date of receipt of consideration 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 receipt of share transfer money	Amount of foreign inward remittance (₹)	Date of reporting to AD bank	Days delay excluding prescribed time of 60 days
1	Collabera INC., USA	13-02-2017	50,000	10-09-2018	514

4. As indicated in the Table above, the applicant received one foreign inward remittance amounting to ₹50,000/- from the foreign investor Collabera INC., USA towards sale of equity shares of Collabera Services Pvt. Ltd., Vadodara. The applicant reported the transfer of shares from resident to non-resident to its Authorised Dealer bank on September 10, 2018 with a delay of 514 days beyond the stipulated period of 60 days from the date of receipt of amount of consideration 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.

5. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1418/06.04.15 (A) / CEFA / 2018-19 dated March 19, 2019 for further submission in person and / or producing documents, if any, in support of the application. The applicant has vide his letter dated March 20, 2019 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 an inadvertent mistake on the part of the applicant. 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 December 27, 2018 (received at Reserve Bank of India on January 22, 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 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 him 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 ₹50,000/- and the delay is 514 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 ₹3,550/- (Rupees Three Thousand Five Hundred Fifty 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 ₹3,550/- (Rupees Three Thousand Five Hundred Fifty 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 16th day of April, 2019.

Sd/-

(Ashish Gogia)

Assistant General Manager