



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

Present
N Senthil Kumar
General Manager

December 13, 2018
CEFA.CO.ID.10985 / C.A. No. AHM - 114 / 2018-19

In the matter of

Chhaganbhai Kanjibhai Detroja
Plot No. 33, Vraj Vatika Society, Near Jivraj Park, Ravapar Road, Morvi - 363641
गुजरात / 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 there under, I pass the following order:

Order

The applicant has filed compounding application dated September 5, 2018 (received at Reserve Bank of India on September 18, 2018) 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 refund of share transfer money beyond stipulated period of 60 days; in terms of 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 Chhaganbhai Kanjibhai Detroja, aged about 57 years, having PAN: ABMPD7191G and residing at Plot No. 33, Vraj Vatika Society, Near Jivraj Park, Ravapar Road, Morvi – 363641. The applicant has received three foreign inward remittances amounting to ₹44,04,775/- from foreign investor M/s Star India Holding Pte. Ltd., Singapore towards sale of equity shares of Belleza Ceramic Pvt. Ltd., Morvi. The transaction relating to transfer of shares between the applicant and foreign investor could not materialise due to unavoidable family circumstances. Thus, the applicant was required to unwind the transaction by refunding the entire amount of ₹44,04,775/- to M/s Star India Holding Pte. Ltd., Singapore. The applicant refunded the entire share transfer money amounting to ₹44,04,775/- to overseas investor on November 16, 2018. There was a delay in refund of the share transfer money beyond the stipulated time period of 60 days, in contravention of para 10 (1) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 as then applicable.



3. Contravention under Para 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 refund to remitter	Days delay excluding prescribed time of 60 days
1	Star India Holding Pte. Ltd., Singapore	02.01.2013 29.01.2013 21.08.2013	21,47,151 21,30,241 1,27,383	16-11-2018	2084
			44,04,775		

4. As indicated in the Table above, the applicant received three foreign inward remittances amounting to ₹44,04,775/- from the foreign investor M/s Star Holding Pte. Ltd., Singapore towards sale of equity shares of Belleza Ceramic Pvt. Ltd., Morvi. The transaction could not materialise and the applicant refunded the entire share transfer money amounting to ₹44,04,775/- on November 16, 2018 with delay of 2084 days approximately beyond the stipulated period of 60 days from the date of receipt of amount of consideration in terms of Paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000. Whereas in terms of Paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, in case of transfer of shares of an Indian company by way of sale from a person resident in India to a person resident outside India or vice versa, the transferor / transferee, resident in India, shall submit to the AD bank a report in the form FC-TRS, within 60 days from the date of receipt or payment of the amount of consideration. The onus of submission of the form FC-TRS within the specified time shall be on the transferor / transferee, resident in India. Thus, the applicant has contravened the provisions of 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.866/06.04.15 (A) CEFA /2018-19 dated December 7, 2018 for further submission in person and/or producing documents, if any, in support of the



application. Shri Ronak Khanvani, Company Secretary, M/s R K Doshi & Co. LLP represented the applicant for the personal hearing on December 13, 2018. They 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 they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding Authority in connection with their compounding application.

6. The representative of the applicant requested that in view of the foregoing, a lenient view may be taken in disposal of the application. 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 during personal hearing and thereafter.

7. It has been declared in the compounding application dated September 5, 2018 that the particulars given by the applicant in the application are true and correct to the best of their 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 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) Paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in refund of share transfer money as detailed in paragraph 4 above. The amount of contravention involved is ₹44,04,775/- and the delay is 2084 days approximately.

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 ₹90,250/- (Rupees Ninety thousand two hundred fifty only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions, namely contravention of 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 ₹90,250/- (Rupees Ninety thousand two hundred fifty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 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 13th day of December, 2018.

(N Senthil Kumar)

General Manager