



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

Present

Suman Ray
Chief General Manager

Date: February 14, 2020
C.A. 967/2019

In the matter of

Shri Shivaji Gulab Waghmare & Smt. Uma Shivaji Waghmare
Plot No.741, Amar Srushti
S.No.216, 217, 279A, Hadapsar
Pune – 411 028

(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 applicants have filed a compounding application dated October 16, 2019 (received at Reserve Bank on November 05, 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



Shri Shivaji Gulab Waghmare & Smt. Uma Shivaji Waghmare -
C.A.967/2019

reporting the transfer of shares from resident to non-resident 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 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB)

2. The relevant facts of the case are as follows: The applicants, individuals by name Shri Shivaji Gulab Waghmare and Smt. Uma Shivaji Waghmare, are resident joint shareholders in the company M/s. Consul Neowatt Power Solutions Pvt Ltd., a private limited company incorporated under the Companies Act, 1956 on May 20, 1985 with CIN U31900TN1985PTC011866.

3. The applicants sold 393 equity shares at a negotiated price of ₹36,442.74 each to the Non-Resident company M/s. Peepul Capital Fund III LLC, Mauritius. The applicants reported the transfer in Form FC-TRS to the Authorised Dealer bank as detailed below:

No of Shares	Negotiated Price ₹	Amount Involved (₹)	Date of receipt of consideration	Date of filing FC TRS with AD
393	36,442.74	1,43,21,996.82	18.07.2017	15.11.2017

The applicants filed the Form FC TRS on the date indicated above with a delay of two months approximately beyond the prescribed period of 60 days from the date of receipt of consideration. 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.63 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 consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India.

4. The applicants were advised about the contravention vide memorandum dated September 24, 2019. The applicants have filed a compounding application dated



Shri Shivaji Gulab Waghmare & Smt. Uma Shivaji Waghmare -
C.A.967/2019

October 16, 2019. It has been declared in the compounding application that the particulars given by the applicants 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 applicants were 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 applicants 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 applicants were given an opportunity for personal hearing vide Reserve Bank's mail dated February 10, 2020 for further submission in person and/or producing documents, if any, in support of the application. The applicants appeared for the personal hearing scheduled on February 13, 2020 through an authorized representative Shri S Chandrasekar, Practising Company Secretary. The authorized representative of the applicants admitted the contravention as stated in paragraph 3 above for which compounding has been sought. During the personal hearing, it was submitted that the delay was unintentional. In view of the above, they 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 applicants during personal hearing.

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



Shri Shivaji Gulab Waghmare & Smt. Uma Shivaji Waghmare -
C.A.967/2019

(a) 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.63 dated April 22, 2009 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 ₹1,43,21,996.82 and the duration of the contravention being two months 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, considering the circumstances which led to the delay and other relevant facts of the case, I consider that an amount of **₹18,500/-** (Rupees eighteen thousand five hundred 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 and A.P.(DIR)Series Circular No.63 dated April 22, 2009 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹18,500/-** (Rupees eighteen thousand five hundred 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 fourteenth day of February, 2020.

Sd/-



Shri Shivaji Gulab Waghmare & Smt. Uma Shivaji Waghmare -
C.A.967/2019

Suman Ray
Chief General Manager