



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Meghna Singh
Assistant General Manager

Date: December 19, 2019
CA No 4966 / 2019

In the matter of

Suresh Taneja
B-49, Manu Apartments, Mayur Vihar Phase 1
New Delhi 110091
(Applicant)

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

Order

The applicant has filed the application dated July 03, 2019 (received in the Reserve Bank of India on July 04, 2019), for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are possession and retention of foreign exchange beyond the stipulated limit and delay in surrender of foreign exchange which is a contravention of Regulation 6(2) of Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations 2000, as amended from time to time (hereinafter referred to as FEMA 9/2000-RB), and Regulation 3 of Foreign Exchange Management (Possession and



Retention of Foreign Currency) Regulations, 2000, as amended from time to time (hereinafter referred to as FEMA 11/2000-RB) read with section 10(6) of FEMA 1999.

2. The relevant facts are as under: The applicant is a person resident in India and group CFO of Triveni Engineering and Industries Ltd. The applicant had undertaken various official visits to other countries but failed to surrender the forex amount held above the prescribed limit of USD 2000 (or its equivalent). Related details are tabulated below:

SI No.	Amount in excess of USD 2,000		Return date of journey	Date of surrender	Period of contravention
	In USD	In INR			
1	1,500	65,475	20-10-01	22-04-10	8 years 3 months 4 days
2	500	21,825	03-11-01	22-04-10	8 years 2 months 21 days
3	300	13,095	16-11-05	22-04-10	4 years 2 months 8 days
4	200	8,730	06-03-06	22-04-10	3 years 10 months 18 days
Total	2,500	1,09,125			

As per the aforementioned regulations, where the foreign exchange acquired or purchased by any person from an authorised person is for the purpose of foreign travel, then, the unspent balance of such foreign exchange shall be surrendered to an authorised person within 90 days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of currency notes and coins and within 180 days in case forex is in the form of travellers cheques. On April 07, 2010, Deputy Director, Income Tax conducted search and seizure action and foreign currency in excess of USD 2000 was found and inventorised. The applicant received a 'Show Cause Notice' dated October 17, 2018, from Directorate of Enforcement (DoE) for the same matter. The applicant encashed the amount exceeding the prescribed limit of USD 2,000 i.e., USD 2,500 through authorised person namely, Weizman Forex Ltd., Noida on April 22, 2010. As the excess forex was surrendered to the authorised person administrative action for the aforesaid contravention was complete.

3. In terms of Regulation 6(2) of FEMA 9/2000-RB:



Notwithstanding anything contained in sub-regulation (1), where the foreign exchange acquired or purchased by any person not being an individual resident in India from an authorised person is for the purpose of foreign travel, then, the unspent balance of such foreign exchange shall, save as otherwise provided in the regulations made under the Act, be surrendered to an authorised person -

- a. within ninety days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of currency notes and coins; and
- b. within one hundred eighty days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of travellers cheques.

In terms of Regulation 3 of FEMA 11/2000-RB:

Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not to exceed US\$ 2000 or its equivalent in aggregate, provided that such foreign exchange is in the form of currency notes, bank notes and travellers cheques and represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

Further, in terms of Section 10(6) of FEMA:

Any person, other than an authorized person, who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to authorized person under sub-section (5) does not use it for such purpose or does not surrender it to authorized person within the specified period or uses the foreign exchange so acquired or purchased for any other purpose for which purchase or acquisition or foreign exchange is not permissible under the provisions of the Act or the rules or regulations or direction or order made there under shall be deemed to have committed contravention of the provisions of the Act for the purpose of this section.

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA/1876/15.20.67/2019-20 dated October 14, 2019 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 October 14, 2019.

It has been declared in the compounding application dated July 03, 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 also been declared in the declaration furnished along with the compounding application that the applicant is under DoE investigation. RBI, vide its letter No. FE.CO.CEFA/243/15.20.67/2018-19 dated July 11, 2019, had sought comments from DoE as to whether its investigation pertained to the contraventions sought to be compounded by the applicant and whether it had any objection to compounding of admitted contraventions by RBI. A reminder letter ref. No. FE.CO.CEFA/857/15.20.67/2018-19, was sent to DoE on August 13, 2019. No response has been received from DoE to the abovementioned letters. 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 and if the said declarations are subsequently discovered to be false and/or incorrect.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and mails dated August 21, 2019 and August 24, 2019 from the applicant.

5. I have given my careful consideration to the documents on record, it was observed that the applicant has contravened Regulation 6(2) of FEMA 9/2000-RB and Regulation 3 of FEMA 11/2000-RB read with section 10(6) of FEMA 1999. The amount of contravention is Rs. 1,09,125/- and the period of contravention is ranging from 3 years 10 months and 18 days to 8 years 3 months and 4 days.

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. 1,77,219/- (Rupees One lakh seventy seven thousand two hundred nineteen 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 contravention committed by the applicant namely, Regulation 6(2) of FEMA 9/2000-RB and Regulation 3 of FEMA 11/2000-RB read with section 10(6) of FEMA 1999, on payment of a sum of Rs.1,77,219/- (Rupees One lakh seventy seven thousand two hundred nineteen 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 19th day of December, 2019

Sd/-

(Meghna Singh)
Assistant General Manager