



In the

**Reserve Bank of India**  
Foreign Exchange Department  
Fort Glacis, Rajaji Salai  
Chennai 600 001

Present

**K Dhamodhiran**  
**Assistant General Manager**

Date: May 03, 2019  
**C.A. 888/2019**

In the matter of

**Shri T.Perumal**  
7A, Kathiravan Nagar, Kolappakkam Main Road  
Gerugambakkam Post  
Chennai- 600 122

**(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 applicant has filed a compounding application dated February 13, 2019 (received at Reserve Bank on March 5, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA, 1999) and the regulations issued there under. The contravention sought to be compounded is delay in 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



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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) and Regulation 13.1(4) to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017 notified vide Notification No. FEMA 20R/2017-RB dated November 07, 2017 as amended from time to time (hereinafter referred to as Notification No. FEMA 20R/2017-RB)

2. The relevant facts of the case are as follows: The applicant, an individual by name Shri T.Perumal, is a resident shareholder in the company M/s. Sunwells Oxygen India Pvt Ltd., incorporated under the Companies Act, 1956 on August 06, 2008 with Registration No. U72501TN2008PTC68783.

3. The applicant sold 300 equity shares of ₹100/- each at a negotiated price of ₹2000/- to the Non-Resident shareholder M/s.Sunwell Solutions Co. Ltd, Japan against inward remittances received in two tranches on August 21, 2017 and November 22, 2017. The applicant reported the transfer in Form FC-TRS to the Authorised Dealer bank as detailed below:

No of Shares	Negotiated Price ₹	Amount Involved (INR)	Date of receipt of consideration	Date of filing FC TRS with AD
300	2000	3,16,532.58	21.08.2017	29.03.2018
		2,83,467.42	22.11.2017	

The applicant filed the form FC-TRS on March 29, 2018 as indicated above with delay ranging from two months eight days to five months nine days approximately beyond the prescribed period of 60 days. Whereas in terms of Regulation 10A(b)(i) read with Paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB, the form FCTRS should be submitted to the AD Category – I bank within 60 days from the date of receipt of the amount of consideration and in terms of Regulation 13.1(4) of Notification No. FEMA 20R/2017-RB, the form FC-TRS should be submitted to the AD Category – I bank within 60 days of transfer of capital instruments or receipt/remittance of funds



whichever is earlier. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India. In the instant case, the date of transfer of shares was on September 19, 2017 i.e, before the issue of Notification No. FEMA 20R/2017-RB. Hence the date of receipt of consideration i.e, November 22, 2017 has been taken into consideration for calculating the delay for contravention of Regulation 13.1(4) of Notification No. FEMA 20R/2017-RB, instead of date of transfer of shares.

4. The applicant was advised about the contravention vide memorandum dated December 06, 2018. The applicant has filed a compounding application dated February 13, 2019. It has been declared in the compounding application 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 it/him/her thereafter. 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 24, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on April 29, 2019 along with Shri Santhosh Kumar, Company Secretary in practice. The applicant admitted the contravention as stated in paragraph 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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.



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6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA,1999 provisions issued in terms of:

(a) Regulation 10A(b)(i) read with Paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB and Regulation 13.1(4) to Notification No.FEMA 20R/2017-RB, 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 ₹6,00,000.00 and the duration of the contravention ranging from two months eight days to five months nine days approximately.

7. In terms of Section 13 of the FEMA, 1999, 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 ₹ 61,924/- (Rupees sixty one thousand nine hundred and twenty four 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 Regulation 13.1(4) to Notification No. FEMA 20R/2017-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹61,924 (Rupees sixty one thousand nine hundred and twenty four 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.



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The application is disposed accordingly.

Dated this third day of May, 2019.

**Sd/-**  
**K Dhamodhiran**  
**Assistant General Manager**