



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

R. K. Moolchandani
Chief General Manager

Date: January 30, 2020
CA No 4995/ 2019

In the matter of

William Scott Pinckney
C/o BSM Legal, 3015, Sector 27-D
Chandigarh.

(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 August 05, 2019 (received in the Reserve Bank on August 06, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention pertain to remittance of assets beyond the stipulated limit in violation of Regulation 4(2) of Foreign Exchange Management (Remittance of Assets) Regulations, 2000 notified vide Notification No. FEMA 13/2000-RB, dated May 03, 2000 as amended from time to time.



2. The relevant facts are as under:

The applicant, Mr. William Scott Pinckney is an Australian Citizen, who stayed in India for employment during the period from 1998 to 2015. During February 2015-April 2017, the applicant made multiple remittances to his (overseas) bank account in Australia. DoE initiated an investigation against the applicant in connection with the forex transactions undertaken by him and a show-cause notice (SCN) dated March 08, 2019 was issued to the applicant. DoE had stated that the applicant had remitted funds in excess of the prescribed limit, USD 1 mn, during the year 2015-16 and that the applicant had contravened Regulation 4(2) of the then applicable Foreign Exchange Management (Remittance of Assets) Regulations, 2000 Notification No.FEMA 13 /2000-RB dated 3rd May 2000 (FEMA 13).

The applicant had submitted a reply to the SCN mentioning that he had worked in India for 17 years till April 2015 and had relocated to Australia after retirement. He also stated that the remittances were made by him out of the assets earned over the period in which he was in India and subsequently filed the compounding application with RBI. The concerned Division (EPD, FED) has taken the transactions on record and administrative action is thus complete.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2632/15.20.67/2019-20 dated November 21, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on December 04, 2019, during which the representative of the applicant submitted that the contraventions were inadvertent and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing with the Compounding Authority.

4. It has been declared in the compounding application dated August 05, 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 along with the compounding application that the applicant was under enquiry by the Directorate of Enforcement (DoE), in connection with the



transactions related to the remittance of assets and that all the details required by DoE at the time had been furnished by the applicant.

RBI, vide its letter reference No. FED.CO.CEFA/796/15.20.67/2019-20 dated August 08, 2019 had sought No Objection Certificate (NOC) from DoE to proceed with the compounding process. DoE had conveyed its 'No Objection' vide letter dated F.No.RBI/SDE/WR/B-256/2019/1695 dated September 12, 2019.

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. I have given my careful consideration to the documents on record and submissions made during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 4(2) of Notification No. FEMA.13//2000-RB, dated May 03, 2000. The amount of contravention is Rs. 4,13,58,300/- and period of contravention was from March 09, 2016 (date on which the remittance exceeded the limit) to September 05, 2019 (date on which the transaction was taken on record by RBI).

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, it stands to reason that payment of an amount of Rs.3,18,829/- (Rupees Three lakh eighteen thousand eight hundred and twenty nine only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, of 4(2) of Notification No. FEMA.13//2000-RB, dated May 03, 2000, on payment of a sum of Rs.3,18,829/- (Rupees Three lakh eighteen thousand eight hundred and twenty nine only) which shall be deposited by the applicant with the "The Chief General Manager – In – Charge, Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort,



Mumbai – 400001” by a demand draft drawn in favour of the "The Chief General Manager – In – Charge, 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 30th day of January, 2020

Sd/-
(R. K. Moolchandani)
Chief General Manager