



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

Present
Jayant Kumar Dash
Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /
Chief General Manager (Ahmedabad)

February 15, 2019
CEFA.CO.ID.11421 / C.A. No. AHM - 119 / 2018-19

In the matter of

BC Instruments India Private Limited
Plot No. 1802/4, Phase IV, GIDC Estate, Vithal Udhyognagar - 388121
Gujarat / गुजरात

(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 November 05, 2018 (received at Reserve Bank of India on November 20, 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 reporting of transfer of shares from non-resident to resident beyond stipulated period of 60 days; in terms of Regulation 10 B (2) read with 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 company is a Private Limited Company incorporated on October 08, 2003 under the provisions of Companies Act 1956 with the Registrar of Companies, Ahmedabad CIN: U29119GJ2003PTC043024. The company is engaged in high precision machining of components and assemblies for Aerospace, Medical Instruments, Engineering, Power Generation and other high tech sectors, bearing NIC Code: 27103. The Company has made outward remittance equivalent to ₹2,68,86,117/- on September 27, 2017 to non-resident investor, Ms. Ramilaben H. Patel, Canada towards buy back of shares. The company reported the transfer of shares to Authorised Dealer bank from non-resident to resident with a delay of 115 days from the date of payment of consideration/transfer of shares thereby contravening Regulation 10 B (2) read with Paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000 as then applicable.



3. Contravention under Regulation 10 B (2) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:

Sr. No.	Seller	Date of payment for share buyback	Amount of foreign outward remittance (₹)	Date of reporting to AD bank	Days delay excluding prescribed time of 60 days
1	Ms. Ramilaben H. Patel	27-09-2017	2,68,86,117	21-03-2018	115

4. As indicated in the table above, the applicant company has made foreign outward remittance to overseas non-resident investor Ms. Ramilaben H. Patel, Canada amounting to ₹2,68,86,117/- towards buyback of equity shares of BC Instruments India Pvt. Ltd., Ahmedabad. The company reported the transfer of shares from non-resident to resident with a delay of 115 days beyond the stipulated period of 60 days from the date of payment of the amount of consideration in terms of Regulation 10 B (2) read with paragraph 10(1) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Regulation 10 B (2) of Notification No. FEMA 20/2000-RB states that, “A person resident outside India, may transfer share or convertible debenture of an Indian company, without the prior permission of the Reserve Bank, by way of sale, to a person resident in India subject to the adherence to pricing guidelines, documentation and reporting requirements for such transfers as may be specified by Reserve Bank from time to time.”

Further, Paragraph 10 (1) of Schedule I of the abovementioned regulations specifies a time period of 60 days from the date of receipt or payment of the amount of consideration, within which the transferor/transferee, resident in India, shall submit a report in the Form FC-TRS. Thus, the applicant has contravened the provisions of Regulation 10 B (2) read with 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.1164/06.04.15 (A) / CEFA / 2018-19 dated February 12, 2019 for further submission in person and / or producing documents, if any, in support of the application. The applicant has vide their letter dated February 12, 2019 requested to



dispose of their application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. The applicant 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 a 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 application for compounding is 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.

7. It has been declared in the compounding application dated November 05, 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 addendum to 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) Regulation 10 B (2) read with paragraph 10 (1) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in reporting of transfer of



shares from non-resident to resident beyond stipulated period of 60 days as detailed in paragraph 4 above. The amount of contravention involved is ₹2,68,86,117/- and the delay is 115 days.

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 ₹26,500/- (Rupees Twenty Six Thousand Five Hundred only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions, namely contravention of Regulation 10 B (2) read with 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 ₹26,500/- (Rupees Twenty Six Thousand Five Hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Ground Floor, Near Gandhi Bridge, Post Bag No. 1, Ahmedabad – 380 014 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 15th day of February, 2019.

Sd/-

(Jayant Kumar Dash)

Regional Director (Gujarat, Daman & Diu and Dadra & Nagar Haveli) /

Chief General Manager (Ahmedabad)