



In the

Reserve Bank of India
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Vikramjit Singh Randhawa
Assistant General Manager

Date: May 27, 2019

CA No. CHA 45/2019

In the matter of

Mr. Benarsi Dass Gupta
41/5, Dyal Bagh, Babyal Road,
Ambala Cantt
Haryana-133001

(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

The applicant has filed a compounding application dated May 02, 2019 for compounding of contravention of the provision of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is the delay in refund of excess amount beyond prescribed limit of 75 days; in terms of Paragraph 2 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB dated November 7, 2017, as amended from time to time (hereinafter referred to as Notification No. FEMA 20 (R)/2017-RB).



2. The relevant facts of the case are as follows:

The applicant is a resident shareholder of M/s. Gunjan Cutting Edge Solutions Private Limited (CIN: U45202HR2006PTC053748) of the company. The applicant received an inward remittance of INR **71,31,496** from Mrs. Neha Aggarwal, USA (purchaser), on May 31, 2018 for transfer of 1,10,000 equity shares to the purchaser by the applicant.

3. The applicant had received foreign inward remittance for transfer of shares. However, the excess amount was refunded with delay as per details given below.

Date of inflow	Amount of inflow	Excess amount	Date of Refund	Delay
31.05.2018	71,31,496	91,496	13.03.2019	211 days

As mentioned above, there was delay of **211 days** in refund of excess inflow amount beyond prescribed limit of 75 days after receipt of inflow. This is contravention of **para 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017**.

4. The applicant was given an opportunity for personal hearing vide our letter No. CHD.FE.CG/FID/974/03.01.011/2018-19 dated May 16, 2019 for further submission in person and/or producing documents, if any, in support of the application. The Authorized Representative of the applicant, Mr. Mohit Bajaj, Company Secretary appeared for personal hearing on May 20, 2019. During the personal hearing, the representative of the applicant admitted the contraventions committed by them for which they have sought compounding. The representative submitted that the contraventions were due to lack of awareness of the procedural requirements and were not intentional and have requested for taking 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 the submissions made in this context by the representative of the applicant during the personal hearing.

5. It has been declared in the compounding application dated May 02, 2019 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 undertaking 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 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.

6. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of **Paragraph 2 of schedule 1 to FEMA 20(R)/ 2017-RB dated November 07, 2017** due to delay refund of excess amount beyond stipulated time period of 75 days as detailed in paragraph 3 above. The contravention relates to an amount of **Rs. 91,496/- with a delay of 211days.**

7. 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 contravention is to be compounded and I consider that amount of penalty of **Rs. 5,359.00 (Rs. Five Thousand Three Hundred Fifty Nine only)** will meet the ends of justice.

8. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of 2 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20 (R)/ 2017-RB dated November 7, 2017 on the facts discussed above, on payment of an amount of **Rs. 5,359.00 (Rs. Five Thousand Three Hundred Fifty Nine only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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 27th day of May 2019.

Sd/-

Vikramjit Singh Randhawa
Assistant General Manager