



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: June 26, 2019
C.A. HYD 424

In the matter of

M/s. Ganapathy Finance and Investment Company
UJWALA, 8-2-680, Road No. 12, Banjara Hills
Hyderabad – 500 034

(Applicant)

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

Order

The applicant has filed the compounding application dated April 24, 2019 received by us on April 29, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (FEMA) and the regulations issued there under. The contravention sought to be compounded is delay in submission of form FCTRS on transfer of shares from Resident to Non-Resident in terms of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) Regulations, 2000



Compounding of contraventions under FEMA 1999
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notified vide Notification No. FEMA. 20/2000-RB dated May 03, 2000 (herein after referred to as Notification No. FEMA 20/2000-RB) as then applicable.

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

a) The applicant which is a sole proprietorship concern (Proprietor: Shri. Sreedhar Chowdhury (PAN No. ADCPC2698B)) has transferred 25,82,661 equity shares held in M/s Harsco India Private Limited, to M/s Harsco Investments Europe BV, a non-resident company. The sole proprietorship concern is engaged in the business of "Investment Activity".

b) The applicant has filed form FCTRS for the transfer of shares as shown below:

Sl No.	Name of Resident Seller	Name of the Non-Resident Buyer	No. of shares transferred	Total amount of consideration (Rs)	Date of receipt	Date of Transfer	Date of filing FCTRS
1	Ganapathy Finance and Investment Company	Harsco Investments Europe BV	25,82,661	9,03,93,135	27.05.2016	07.09.2017	11.09.2017
				51,65,322	07.09.2017	07.09.2017	11.09.2017

The applicant had filed form FCTRS with a delay of 1 year 1 month 15 days from the date of receipt of consideration in contravention of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 of FEMA 20. Whereas in terms of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to FEMA Notification No. 20 dated May 03, 2000, in case of transfer of shares or convertible debentures or warrants of an Indian company by way of sale from a resident to non-resident, the transferor/transferee resident shall report the transfer of shares in form FCTRS to AD bank as specified by the RBI from time to time, within 60 days from the date of payment of consideration or the date of transfer of shares, whichever is earlier.



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/ 2916 /14.66.003/2018-19 dated June 19, 2019 for further submission in person and/or producing documents, if any, in support of the application.

(b) The personal hearing was held on June 24, 2019 during which Shri. Sreedhar Chowdhury, Proprietor, represented the applicant and admitted the contravention for which the compounding has been sought. During the personal hearing it was submitted that the delay was due to delay in arriving at a mutually agreeable valuation for the shares. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to FEMA Notification No. 20/2000-RB for delay in filing of form FCTRS after receipt of consideration and the contravention relates to an amount of ₹ 9,03,93,135/- and the period of contravention is 1 year 1 month 15 days approximately.

5. It has been declared in the compounding application dated April 24, 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 declaration dated April 24, 2019 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. 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 an amount of **₹ 68,500/- (Rupees Sixty Eight Thousand Five Hundred Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA-20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount **₹ 68,500/- (Rupees Sixty Eight Thousand Five Hundred Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 26th day of June 2019.

Sd/-

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and



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Chief General Manager (Hyderabad)