



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

K Dhamodhiran
Assistant General Manager

Date: August 26, 2019
C.A. 916/2019

In the matter of

N.Yamuna
2/45, 4th Street, Thiruvalluvar Nagar,
Alandur, Chennai – 600 016

(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 May 27, 2019 (received at Reserve Bank on May 29, 2019) 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 transfer of shares from resident to non-resident by way of gift without RBI approval. Whereas in terms of



Regulation 10 A (a) of 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 May 03, 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB), a person resident in India who proposes to transfer to a person resident outside India any security by way of gift shall make an application to Reserve Bank for its approval.

2. The relevant facts of the case are as follows: The applicant, an individual by name N.Yamuna, is a resident shareholder in the company M/s. Iminisight Software Pvt Ltd., a private limited company incorporated under the Companies Act, 1956 on April 23, 2003 with CIN U72200TN2003PTC050741.

3. The resident shareholder has transferred 500 equity shares of face value ₹100/- each to non-resident, Mr. N.Senthilkumar, USA on March 31, 2004 at a notional value of ₹1306.38 by way of gift without Reserve Bank's approval as detailed below:

No of Shares	Notional Share Value ₹	Amount Involved (₹)	Date of transfer	Date upto which contravention exists
500	1306.38	6,53,190.00	31.03.2004	27.05.2019

Whereas in terms of Regulation 10 A (a) of Notification No. FEMA 20/2000-RB, a person resident in India who proposes to transfer to a person resident outside India any security by way of gift shall make an application to Reserve Bank.

4. The applicant was advised about the contravention vide memorandum dated May 14, 2019. The applicant has filed a compounding application dated May 27, 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 contravention which is being compounded in this Order is 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 August 19, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide email dated August 20, 2019 chose not to appear for the personal hearing scheduled on August 21, 2019. The applicant, in the compounding application, had admitted the contravention as stated in paragraph 3 above for which compounding has been sought. 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.

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 provision issued in terms of:

(a) Regulation 10 A (a) of Notification No. FEMA 20/2000-RB, due to transfer of shares by way of gift without prior approval from Reserve Bank as detailed in paragraph 3 above. The contravention relates to an amount of ₹6,53,190.00 and the duration of the contravention being 15 years one month 27 days approximately.

7. In terms of Section 13 of the FEMA, 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 **₹25,170/-** (Rupees twenty five thousand one hundred and seventy only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 10 A (a) of Notification No. FEMA 20/2000-RB by the applicant on the facts



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discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹25,170/-** (Rupees twenty five thousand one hundred and seventy 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.

The application is disposed accordingly.

Dated this twenty sixth day of August, 2019.

Sd/-

K Dhamodhiran

Assistant General Manager