



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, Rajaji Salai
Chennai 600 001

Present

S Sathish Kumar
Deputy General Manager

Date: February 22, 2019
C.A. 872/2019

In the matter of

Shri Krishnan Naganathan
4th floor, Atrium, 10/19, 7th cross street,
Shastri Nagar, Adyar,
Chennai- 600 020

(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 December 15, 2018 (received at Reserve Bank on December 26, 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 the transfer of shares from resident to non-resident i.e., delay in submission of FC-TRS in terms of Regulation 10A (b)(i) read with Paragraph 10 of Notification No.



Shri Krishnan Naganathan - C.A.872/2019

FEMA 20/2000-RB as amended vide AP (DIR) Series Circular No.63 dated April 22, 2009.

2. The relevant facts of the case are as follows: The applicant, an individual by name Shri Krishnan Naganathan, is a resident shareholder in the company M/s. Valcon Management Consultants Pvt Ltd., a private limited company incorporated under the Companies Act, 1956 on January 25, 2010 with CIN U74900TN2010PTC074371.

3. The applicant sold 69000 and 172500 equity shares of ₹10/- each at a negotiated price of ₹10/- and ₹3/- respectively to the Non-Resident shareholder M/s. Valcon Business Development A/S, Denmark. The applicant reported the transfer in form FC-TRS to the Authorised Dealer bank as detailed below:

No of Shares	Negotiated Price ₹	Amount Involved (INR)	Date of Transfer	Date of filing FC TRS with AD
69000	10	6,90,000.00	20.10.2014	17.09.2018
172500	3	5,17,500.00	30.06.2016	29.09.2018

The applicant filed the forms FC TRS on the dates indicated above with delay ranging from two years one month to three years eight months 28 days approximately beyond the prescribed period of 60 days. Whereas in terms of Regulation 10A (b)(i) read with Paragraph 10 of Notification No. FEMA 20/2000-RB as amended vide A.P (DIR Series) Circular No.63 dated April 22, 2009, the form FC-TRS should be submitted to the AD Category – I bank within 60 days from the date of transfer. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India.

4. The applicant was advised about the contraventions vide memorandum dated October 29, 2018. The applicant has filed a compounding application dated December 15, 2018. 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



Shri Krishnan Naganathan - C.A.872/2019

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 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. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated February 20, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on February 22, 2019. The applicant, in the compounding application, had admitted the contravention as stated in para 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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 provisions issued in terms of:

(a) Regulation 10A (b)(i) read with Paragraph 10 of Notification No. FEMA 20/2000-RB as amended vide A.P (DIR Series) Circular No.63 dated April 22, 2009 due to delay in filing form FC-TRS with the Authorised Dealer. The contravention relates to an amount of ₹12,07,500.00 and the duration of the contravention ranges from two years one month to three years eight months 28 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



Shri Krishnan Naganathan - C.A.872/2019

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 **₹15,830/-** (Rupees fifteen thousand eight hundred and thirty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 10A (b)(i) read with Paragraph 10 of Notification No. FEMA 20/2000-RB as amended vide A.P (DIR Series) Circular No.63 dated April 22, 2009 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹15,830/-** (Rupees fifteen thousand eight hundred and thirty 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 of accordingly.

Dated this Twenty second day of February, 2019.

Sd/-

S Sathish Kumar
Deputy General Manager