



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office Cell, 1st Floor
6, Sansad Marg
New Delhi - 110 001

Present

K.K. Vazirani
Assistant General Manager

Date: December 6, 2019

C.A. No. 105 /2019

In the matter of

Mr. Murugaih PremJayand
20-1/5, Kottan Senai Veedi
Colombo – 13
Sri Lanka

In exercise of the powers under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations / Rules / Notifications / Orders made thereunder, I pass the following:

Order

The applicant, Mr. Murugaih PremJayand has filed an application dated July 1, 2019 (received in RBI on July 5, 2019) for compounding of contravention of the provisions of Foreign Exchange Management Act, 1999 (the FEMA) and the Regulations issued thereunder. The contravention sought to be compounded relate to acquisition of immovable property in India by a Sri Lankan Citizen without RBI permission, in contravention of the provisions under Regulation 7 of Notification No. FEMA.21 /2000-



RB dated May 03, 2000, as amended from time to time (hereinafter referred to as FEMA 21 *ibid.*).

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

a. Mr Murugaih PremJayand, a Srilankan citizen, had acquired two immovable properties in India for total consideration of ₹ 2,10,000 /- (Rupees two lakh ten thousand only) vide sale deeds executed on August 9, 2004 and March 24, 2007 without Reserve Bank permission.

b. The details of the immovable properties under reference are given below:

Revenue & other Details	Area	Amount	
1. R. S. No. - 83-52 (Old R. S. No. - 83 -1) Natham Manai Pura, Thiruvarur, Tamil Nadu admeasuring 685 sq mts	1160 sq. mts. i.e. 685 sq mts + 475 sq mts.	Total cost of Acquisition of both properties - ₹ 2,10,000/-(Rupees two lakh ten thousand only) i.e. ₹ 1,10,000 + ₹ 1,00,000	Total cost of immovable properties at the time of transfer - ₹ 9,00,000/-.
2. R. S. No. - 83-53 (Old R.S.No.:83 -1) Natham Manai Pura, Thiruvarur, Tamil Nadu admeasuring 475 sq mts.			

The immovable properties were acquired for total consideration of ₹ 2,10,000 /-(Rupees two lakh ten thousand only).

c. Mr Murugaih PremJayand being a Sri Lankan Citizen was not eligible to acquire immovable property in India without prior permission from the Reserve Bank of India. Hence, the aforesaid immovable properties were acquired by Mr Murugaih PremJayand, Sri Lankan Citizen, without Reserve Bank's permission, in contravention of Regulation 7 of Notification No. FEMA.21.



- d. Regulation 7 of Notification No. FEMA.21 states that no person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.
- e. In view of the above, the applicant was advised to transfer the immovable properties vide RBI Chennai letter No. Che.FED.NRFAD/3012/09.06.001/2017-18 dated February 13, 2018 to a person resident in India who is a citizen of India within six months from the date of such letter and not to repatriate sale proceeds of the properties without prior approval of the RBI subject to compounding of contravention.
- f. The properties were transferred by the applicant to a person resident in India vide sale deed executed on April 4, 2018.
- g. The contravention has been regularized vide RBI, Chennai letter No. Che.FED.NRFAD/3012/09.06.001/2017-18 dated February 13, 2018 subject to Compounding of contravention.
- h. The purchase price of the properties i.e. ₹ 2,10,000 /-(Rupees two lakh ten thousand only) has been considered as the amount of contravention.
- i. The purchase transactions took place on August 9, 2004 and March 24, 2007 and sale transaction took place on April 4, 2018. The period of contravention, therefore, has been considered with effect from August 9, 2004 to April 4, 2018 i.e. 13 years 07 months 26 days.
- j. The amount and period of contravention is as follows:
Amount: ₹ 2,10,000 /-(Rupees two lakh ten thousand only)
Period: 13 years 07 months 26 days i.e. from August 9, 2004 to April 4, 2018.

3. The applicant has contravened Regulation 7 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 notified vide Notification No. FEMA.21, as amended from time to time. Regulation 7 of FEMA 21 states that no person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank



shall acquire or transfer immovable property in India, other than lease, not exceeding five years

In the instant case, the applicant being a Sri Lankan citizen has purchased immovable properties in India without obtaining prior permission from Reserve Bank of India. The aforementioned contravention has been regularized by vide RBI, Chennai letter No. Che.FED.NRFAD/3012/09.06.001/2017-18 dated February 13, 2018 subject to compounding of contravention.

4. The applicant was given an opportunity for personal hearing vide email dated November 26, 2019 for further submission in person and /or producing documents, if any, in support of the application. Applicant vide email dated November 27, 2019 has submitted that he is not in a position to attend the hearing and stated that he will abide by the order of compounding authority and all the rules and regulations of RBI.

5. It has been declared in the compounding application dated July 1, 2019 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 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 him 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. The application for compounding is, therefore, being decided on the basis of the averments/submission made in the application as well as other documents submitted.

6. 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 Regulation 7 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 *notified vide* Notification No. FEMA.21/2000-RB dated May 3, 2000 as amended from time to time. The contravention amount i.e. cost of acquisition of immovable properties, comes to ₹



2,10,000 /-(Rupees two lakh ten thousand only) and the period of contravention stands at 13 years 07 months 26 days i.e. from August 9, 2004 (date of purchase of 1st property) to April 4, 2018(date of sale of properties).

7. In terms of Section 13 of the FEMA, 1999, 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 and after considering the submissions made by the applicant and the entire facts and circumstances of the case, I consider that payment of an amount of ₹ 6,30,000/- (Rupees six lakh thirty thousand only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound the admitted contravention namely the contravention of Regulation 7 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 *notified vide* Notification No. FEMA.21/2000-RB dated May 3, 2000, as amended from time to time, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 6,30,000/- (Rupees six lakh thirty thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 1st Floor, 6, Sansad Marg, New Delhi – 110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Delhi 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 03, 2000, as amended from time to time, shall apply.

The application is disposed accordingly.

Dated this the 6th day of December 2019.

K.K. Vazirani
Assistant General Manager