



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001  
Present

**Manmohan**  
**Deputy General Manager**

Date: March 01, 2019  
C.A. 4859/2019

In the matter of

**Shri Naveen Trehan**  
**6899 Collins Avenue, Apt 2707, Miami Beach, Florida, 33141 USA**

**(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 January 08, 2019 (received in the Reserve Bank on January 09, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded relate to purchase of equity shares of an Indian Company by the applicant pursuant to becoming



a Non Resident Indian (NRI) through a resident saving bank account, in contravention of Para 3 of Schedule 4 read with Regulation 5(3) (ii) 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 3<sup>rd</sup> May 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant is a 'Non Resident Indian' as defined under Regulation 2 (vi) of Foreign Exchange Management (Deposit) Regulations, 2000 dated May 03<sup>rd</sup>, 2000. The applicant acquired certain equity shares (details given below) of Pacific BPO Private Limited, a company incorporated under the Companies Act, 1956, with its Registered Office at C-11, Tarang Apartments, IP Extension, Delhi – 110092 (hereafter referred as Pacific). Pacific is engaged in the business of providing healthcare revenue cycle management services to healthcare providers, hospitals and third party medical coding and billing companies.

On April 15, 2015 the applicant purchased 65,000 (Sixty Five Thousand) equity shares each of Pacific from Shri Pramod Kumar Shahi and Ms. Meera Shahi, person(s) resident in India for sale consideration of Rs. 19,50,000/- (Rs. Nineteen Lakh Fifty Thousand Only) each.

On January 28, 2016 the applicant issued a cheque of amount Rs. 19,50,000 drawn on HDFC Bank Account 05721000036337 of the applicant maintained with HDFC Bank Branch "*Vatika Atrium, A-Block, Golf Course Road, Sector – 53, Gurgaon – 122002*" in favour of Shri Pramod Kumar Shahi towards the payment of the sale consideration of 65,000 equity shares. Similarly, on February 26, 2016 the applicant issued another cheque of Rs. 19,50,000 drawn on same account of the applicant in favour of Ms. Meera Shahi towards the payment of the sale consideration of remaining 65,000 equity shares.

2.1 The applicant had paid the consideration for purchasing equity shares of an Indian company from persons resident in India, through resident saving bank account



maintained with HDFC Bank, in contravention of Paragraph 3 of Schedule 4 read with Regulation 5(3) (ii) of Notification No. FEMA 20/ 2000-RB. However, the applicant got converted his ordinary resident savings account into NRO account and Foreign Investment Division (FID) of FED vide its letter dated April 26, 2018 has advised the AD Bank of the applicant to advise the applicant that his investment is being treated as non-repatriable.

3. The applicant committed the following contraventions of FEMA provisions as laid down under Notification No. FEMA 20/2000-RB, as then applicable:-

3.1 In terms of Paragraph 3 of Schedule 4 of Notification No. FEMA 20/2000-RB *“The amount of consideration for purchase of shares or convertible debentures of an Indian company on non-repatriation basis, shall be paid by way of inward remittance through normal banking channels from abroad or out of funds held in NRE/FCNR /NRO/NRSR/NRNR account maintained with an authorised dealer or as the case may be with an authorised bank in India.”*

3.2 In terms of Regulation 5(3) (ii) of Notification No. FEMA 20/2000-RB *“A non-resident Indian or an overseas corporate body may purchase shares or convertible debentures of an Indian company on non-repatriation basis other than under Portfolio Investment Scheme, subject to the terms and conditions specified in Schedule 4.”*

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FED.CO.CEFA.No./4899/15.20.67/2018-19 dated February 15, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on February 22, 2019, which was attended by Shri Siddharth Kohli, Chartered Accountant. Shri Kohli submitted that funds received utilized to make the payments from HDFC Bank account were received by the applicant from legitimate sources in India. He also submitted that the applicant was maintaining an NRO account with Citi Bank as on the date of the above transaction but had



inadvertently and unintentionally failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and thereafter. Accordingly, I hold that the applicant has contravened the Paragraph 3 of Schedule 4 read with Regulation 5(3) (ii) of Notification No. FEMA 20/ 2000-RB as amended from time to time. The contravention relates to an amount of Rs.39,00,000/- (Rupees Thirty Nine Lakh Only) and the period of contravention is three years (approx) i.e. from April 15, 2015 to April 26, 2018.

6. It has been declared in the compounding application dated January 08, 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 submitted with the application by the applicant 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 as required in terms of the said undertaking. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made/undertaking furnished 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/undertakings are subsequently discovered to be false and/or incorrect.

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 an amount of Rs.75,350/- (Rupees Seventy Five Thousand Three Hundred and Fifty only) will meet the ends of justice in the circumstances of the case.

8. Accordingly, I compound the admitted contraventions namely, the contravention of Paragraph 3 of Schedule 4 read with Regulation 5(3) (ii) of Notification No. FEMA 20/2000-RB amended from time to time by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.75,350/- (Rupees Seventy Five Thousand Three Hundred and Fifty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Mumbai" 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 the first day of March, 2019

**Sd/-**  
**Manmohan**  
**Deputy General Manager**