



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

S.Arumugam
Assistant General Manager

Date: June 21, 2019
CA No 4852 / 2018

In the matter of

Virendra Agrawal
433, Akshaygirikunj III, Paliram Road
Opp: Andheri Station, Andheri West
Mumbai 400058
(Applicant)

In exercise of the powers conferred under section 15 (1) 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 application dated December 26, 2018 (received at the Reserve Bank on December 27, 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 that is sought to be compounded is transfer of foreign securities (without sale of shares) by the applicant to his wife without prior permission of the Reserve Bank of India. The above amount to the contravention of Regulations 22(4) read with Regulation 3 of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July



7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant a resident individual, has worked with Vedanta Group, in India from 2001 to 2008. The applicant was rewarded 8,000 shares of Vedanta Resources PLC, London in March 2004 to be issued in 2 tranches. The consideration for the reward of shares equivalent to face value INR 17,532 had been deducted from the applicant's salary for the month of February 2005. As per the option available in the reward plan, the applicant named his wife Smt Pratibha Agrawal as nominee for 3,000 shares (value worth USD 300/INR 13,149) out of the 4,000 shares to be received in the second tranche and subsequently shares were allotted in her name on September 08, 2006. Since this nomination was done without the prior permission of the Reserve Bank of India, it is in contravention of Regulation 22 (4) read with Regulation 3 of the Notification *ibid*.

3. (i) In terms of Regulation 22(4) a person resident in India may transfer the shares acquired only by way of sale.

(ii) In terms of Regulation 3 which states "save as otherwise provided in the Act or rules or regulations made or directions issued thereunder, no person resident in India shall issue or transfer any foreign security: -

Provided that the Reserve Bank may, on application made to it, permit any person resident in India to issue or transfer any foreign security.

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA/7010/15.20.67/2018-19 dated May 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on June 08, 2019. The applicant along with his wife Smt Prathiba Agrawal and Shri K Ramasubramanian, representative of the applicant, attended the personal hearing and submitted that the applicant had inadvertently failed to comply with the FEMA regulations and was unintentional. 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 submissions made by the applicant during the personal hearing. It was



observed that the applicant has contravened the provisions of Regulations 22 (4) read with 3 of Notification No.FEMA.120/2004-RB. The amount of contravention is INR 13,149 and period of contravention is approximately 12 years 3 months.

6. It has been declared in the compounding application dated December 26, 2018, 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 Annexure of the Compounding Application dated December 26, 2018, that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application. 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.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs.16,108/- (Rupees sixteen thousand one hundred and eight only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 22(4) read with 3 of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 16,108/- (Rupees sixteen thousand one hundred and eight 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 accordingly.

Dated this the 21st of June, 2019

Sd/-
(S Arumugam)
Assistant General Manager