



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

Present

R Karthikeyan
Assistant General Manager

Date: October 21, 2019
C.A. 929/2019

In the matter of

Shri K Gokhul
No.120/34, New Street
Mannady
Chennai – 600 001

(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 June 21, 2019 (received at Reserve Bank on June 24, 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 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 Schedule I to 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 3, 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB)

2. The relevant facts of the case are as follows: The applicant, an individual by name Shri K Gokhul, is a resident shareholder in the company M/s. Fulcrum Commercial Real Estate Services Pvt Ltd., a private limited company incorporated under the Companies Act, 2013 on June 19, 2014 with CIN U74900TN2014FTC096216.

3. The applicant sold 30000 equity shares of ₹10/- each at a negotiated price of ₹25.612/- to the Non-Resident shareholder M/s. Fulcrum Commercial Real Estate Services LLC, New York, USA. The applicant reported the transfer in Form FC-TRS to the Authorised Dealer bank as detailed below:

No of Shares	Negotiated Price ₹	Amount Involved (₹)	Date of receipt of consideration	Date of filing FC TRS with AD
30000	25.612	7,68,360.00	07.07.2017	05.12.2018

The applicant filed the Form FC TRS on the date indicated above with a delay of one year three months approximately beyond the prescribed period of 60 days from the date of receipt of consideration. Whereas in terms of Regulation 10A(b)(i) read with Paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB, the form FC-TRS should be submitted to the AD Category – I bank within 60 days from the date of receipt of consideration. 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 contravention vide memorandum dated May 09, 2019. The applicant has filed a compounding application dated June 21, 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 October 03, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing scheduled on October 04, 2019. The applicant admitted the contravention as stated in paragraph 3 above for which compounding has been sought. During the personal hearing, it was submitted that the delay was unintentional. In view of the above, he requested Reserve Bank to take a lenient view in the matter. 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 during personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

- (a) Regulation 10A (b)(i) read with Paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in filing Form FC-TRS with the Authorised Dealer as detailed in paragraph 3 above. The contravention relates to an amount of ₹7,68,360.00 and the duration of the contravention being one year three months approximately.



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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 **₹11,250/-** (Rupees eleven thousand two hundred and fifty 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 Schedule I to Notification No. FEMA 20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹11,250/-** (Rupees eleven thousand two hundred and fifty 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 first day of October, 2019.

Sd/-

R Karthikeyan
Assistant General Manager