



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Ms. Shilpi Kumari
Assistant General Manager

Date: December 16, 2019
C.A. BGL 490/2019

In the matter of

Mr. Vivek G Pawar
202, Sangam Apartment, 6, Avenue
MIDMAC Layout, Rajiv Nagar
Hubli - 580023

(Applicant)

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

ORDER

The applicant has filed a compounding application dated August 22, 2019, received at this office of Reserve Bank of India, Bengaluru, on August 26, 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 by Resident to Non-Resident in terms of Regulation 10 A (b) (i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB, dated May 03, 2000, as amended from time to time.

2. The relevant facts of the case are as follows: The applicant, Mr. Vivek G Pawar, is a resident shareholder in the company M/s Sankalp Semiconductor Private Limited, which was incorporated at Bengaluru, Karnataka, on October 31,



2005 under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka.

3. The applicant, had received inward remittances of ₹5,00,000.00, and ₹12,78,528.00, amounting to ₹17,78,528.00, from the non-resident transferee, Mr. Mahesh Jadhav, USA, on November 29, 2012, and January 17, 2013, respectively. The resident transferor, Mr. Vivek G Pawar, Bengaluru, had transferred 95000 equity shares worth ₹17,78,400.00, to the non-resident transferee, Mr. Mahesh Jadhav, USA, on January 31, 2013, and reported the same in form FC-TRS with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, on April 13, 2019, with a delay, beyond the prescribed period of 60 days from the date of receipt of amount of consideration.

Whereas, in terms Regulation 10 A (b) (i) read with Paragraph 10 of Schedule 1 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 the amount 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 given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1461/22.06.654/2019-20, dated December 04, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative, Mr. Girish A Desai, Company Secretary, who appeared for the personal hearing on December 09, 2019, admitted the contravention as stated in paragraph 3 above, committed by the applicant, for which compounding has been sought. He requested that as the delay was not willful or with malafide intention, but was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 and thereafter.

5. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the FEMA provision issued in terms of Regulation 10A (b) (i) read with Paragraph 10 of Schedule I to FEMA 20/2000-RB, as amended from time to time, as the applicant had delayed the reporting of transfer of shares as detailed in Paragraph 3 above. The amount of contravention is **₹17,78,400.00**, and the period of delay ranges from six years twenty six days to six years two months and sixteen days.

6. It has been declared in the compounding application dated August 22, 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 as part of 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, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. 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.

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 **₹31,450.00 (Rupees Thirty One Thousand Four Hundred and Fifty only)**, will meet the ends of justice.



8. Accordingly, I compound the admitted contravention namely, contravention of Regulation 10A (b)(i) read with para 10 of Schedule I to Notification No. FEMA 20/2000-RB, as amended from time to time, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹31,450.00 (Rupees Thirty One Thousand Four Hundred and Fifty only)**. The amount shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, payable at Bengaluru, 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 Sixteenth day of December 2019.

Sd/-

(Shilpi Kumari)
Assistant General Manager