



In the

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

Present

Pawanjeet Kaur Rishi
Assistant General Manager

Date: April 12, 2019
CA No 4858 / 2019

In the matter of

Ramasubramanian Balasubramanian
C/O E-36, 101, Jawahar Park, Laxmi Nagar
Delhi-110092

(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 5, 2018 (received in the Reserve Bank on January 8, 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 the transfer of shares from NRI to NR without RBI approval. The above amounts to the contravention of Regulation 9 (2)(ii) read with Regulation 3 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 May 3, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB.

2. The relevant facts are as under: The applicant is an NRI and is also a promoter / director of an Indian Company viz. IBIZ Consulting Services India Pvt Ltd incorporated on December 17, 2008. The applicant transferred 40000 shares held by him in the Indian Company to IBIZCS Group Pte Ltd, Singapore (a non-resident entity) for a consideration of INR 4,00,000 on July 9, 2015. Transfer of shares by an NRI to NR was not a permitted transaction under automatic route during the said period. Hence, the applicant contravened Regulation 9(2)(ii) read with Regulation 3 of FEMA 20. As the transfer of shares from NRI to NR is now under automatic route wef November 7, 2017, there is no need to grant post facto approval in the matter.

3. According to Regulation 9(2)(ii) of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time, "A person resident outside India, not being a Non-resident Indian or an overseas corporate body, may transfer by way of sale or gift the [shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] held by him or it to any person resident outside India."

Further, according to Regulation 3 of FEMA 20, " Save as otherwise provided in the Act, or rules or regulations made thereunder, no person resident outside India shall issue or transfer any security:

Provided that a security issued prior to, and held on, the date of commencement of these Regulations, shall be deemed to have been issued under these Regulations and shall accordingly be governed by these Regulations:

Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit a person resident outside India to issue or transfer any security, subject to such conditions as may be considered necessary.

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA No./4898/15.20.67/2018-19 dated February 15, 2019 for



further submission in person and/or producing documents, if any, in support of the application. The personal hearing was attended by the representatives of the applicant on February 28, 2019. 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. It was observed that the applicant has contravened the provisions of Regulation 9(2)(ii) read with Regulation 3 of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time. The amount and period of contravention is as follows:

Regulation 9(2)(ii) of Notification read with Regulation 3 of FEMA.20/2000-RB
– Amount of contravention – Rs.4,00,000 - 2 years and 4 months.

6. 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. 52,400/- (Rupees fifty two thousand and four hundred only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 9(2)(ii)read with Regulation 3 of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time, on payment of a sum of Rs. 52,400/- (Rupees fifty two thousand and four hundred 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 12th day of April, 2019

Sd/-
(Pawanjeet Kaur Rishi)
Assistant General Manager