



In the  
**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
6, Sansad Marg  
New Delhi-110001

Present  
**P S Khual**  
**General Manager**  
Date: March 4, 2019  
CA No. NDL 316/2018

In the matter of  
  
**Shiven Malhotra**  
143, Golf Links, New Delhi-110003  
**(Applicant)**

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

#### **ORDER**

The applicant has filed the compounding application dated October 22, 2018 (received at Reserve Bank of India, New Delhi on October 23, 2018) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded is of delay in reporting the transfer of shares in Form FC-TRS beyond the stipulated time period, in terms of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 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 (hereinafter referred to as FEMA 20/2000-RB), as amended from time to time.

2. The relevant facts of the case are as follows:

(a) The applicant, a resident individual, had transferred 55,867 equity shares of



M/s Volano Entertainment Private Limited, a company engaged in the business of other sports activities to M/s Gamecubator Labs Pte. Ltd., Singapore, a non-resident company, on August 19, 2015 for a consideration of ₹99,99,634.33 (Rupees Ninety Nine Lakh Ninety Nine Thousand Six Hundred Thirty Four and Paise Thirty Three only) received on August 19, 2015. The applicant reported the said transfer of shares in Form FC-TRS on March 21, 2018. There was, thus, a delay of 2 years, 5 months and 3 days in reporting the transfer of shares beyond the prescribed time period of 60 days from the date of receipt of the amount of consideration.

(b) Whereas, in terms of Regulation 10A(b)(i) of FEMA 20/2000-RB, as then applicable, a person resident in India who proposes to transfer to a person resident outside India any shares or convertible debentures or warrants of an Indian company under the Foreign Direct Investment Scheme, whose activities fall under Annex B to Schedule 1, shall, subject to sectoral limits specified therein, transfer such shares or convertible debentures or warrants without prior approval of the Reserve Bank if the same is by way of sale, subject to the condition that the parties concerned adhere to the pricing guidelines, documentation and reporting requirements for such transfers, stipulated by the Reserve Bank from time to time. Further, in terms of Paragraph 10 of Schedule 1 to FEMA 20/2000-RB, as then applicable, in case of transfer of shares or convertible debentures or warrants of an Indian company by way of sale from a person resident in India to a person resident outside India or vice versa, the transferor/ transferee, resident in India, shall submit to the AD bank a report in the form FC-TRS, as specified by the Reserve Bank from time to time, within 60 days from the date of receipt or payment of the amount of consideration. The onus of submission of the form FC-TRS within the specified time shall be on the transferor/ transferee, resident in India.

(c) Thus, there is contravention of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Shiven Malhotra appeared for personal hearing on March 1, 2019 and admitted the contravention committed by him for which compounding has been sought. During the personal hearing, he submitted that the delay was without any *malafide* or wilful intention but was mainly due to lack of awareness of RBI guidelines with respect to



reporting of foreign exchange transactions as also delay in issue of FIRC and receipt of KYC details of the foreign investor from the foreign remitting bank. He requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant had contravened the provisions of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to FEMA 20/2000-RB. The amount of contravention is ₹99,99,634.33 (Rupees Ninety Nine Lakh Ninety Nine Thousand Six Hundred Thirty Four and Paise Thirty Three only) and the period of contravention is 2 years, 5 months and 3 days.

5. It has been declared in the compounding application dated October 22, 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 also been declared in the declaration dated October 31, 2018 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 him, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA. Accordingly, the above contravention which is 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.

6. In terms of Section 13 of 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 **₹27,500/- (Rupees Twenty Seven Thousand and Five Hundred**



**only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention of Regulation 10A(b)(i) read with Paragraph 10 of Schedule 1 to FEMA 20/2000-RB, as then applicable, on payment of an amount of **₹27,500/- (Rupees Twenty Seven Thousand and Five Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 4<sup>th</sup> day of March 2019.

Sd/-  
**(P S Khual)**  
**General Manager**