



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 4856 / 2018

In the matter of

Vijay P Uttarwar
2302, Odyssey-II, Hiranandani Gardens, Powai
Mumbai 400076

(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 November 12, 2018 (received in the Reserve Bank on January 4, 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 by way of gift by a resident to non resident without RBI approval. The above amounts to the contravention of Regulation 10(A)(a) 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 a resident individual and is also a promoter and director of Naturell (India) Pvt Ltd (NIPL). The applicant transferred 2,50,000 equity shares of Re1 each of NIPL as gift to Mr.Mohan Uttarwar, a non resident on March 31, 2016 without RBI approval thereby contravening Regulation 10(A)(a) of FEMA 20. Post facto approval was granted by RBI on March 12, 2018.

3. According to Regulation 10A(a) of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time, a person resident in India who proposes to transfer to a person resident outside India(not being erstwhile OCB), any security, by way of gift, shall make an application to RBI for its approval.

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA No./4897/15.20.67/2018-19 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 applicant on March 14, 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 10A(a) 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 10A(a) of Notification FEMA.20/2000-RB – Amount of contravention – Rs.2,50,000 - 2 years approx.

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. 51,375/- (Rupees fifty one thousand three hundred and seventy five 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 10A(a) of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time, on payment of a sum of Rs. 51,375/- (Rupees fifty one thousand three hundred and seventy five 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