



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

S. Arumugam
Assistant General Manager

Date: January 20, 2020
CA No 4986 / 2019

In the matter of

Rubal Bansal
D-9, Opp Oriental Bank of Commerce,
Kalvibid, Bhavnagar,
Gujarat-364002

(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 July 20, 2019 (received at the Reserve Bank of India on July 29, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded pertain to setting up of an overseas entity by resident individual before August 05, 2013, in contravention of Regulation 5(1) of Foreign



Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant, a resident individual, remitted SGD 14,500 (Rs 5,52,668/-) on September 09, 2011 towards setting up of an overseas wholly owned subsidiary (WOS). The overseas WOS, Ocean Overseas Pte Ltd was incorporated on September 12, 2011 as a company with an object of undertaking activities related to shipping lines. The remittance was sent when the applicant was not permitted to undertake overseas direct investment. Overseas Direct Investment by resident individuals was permitted vide Notification No. FEMA.263/RB-2013 dated March 5, 2013, effective from August 5, 2013 (date of notification in the Gazette), which was an amendment to Notification No. FEMA 120/2004-RB. The investment was thus in contravention of regulation 5(1) of FEMA 120/2004-RB. The applicant later disinvested the entire stake in favour of an Indian Party Bansal Ship Breakers Limited ("BBSL") on May 07, 2013 under automatic route.

3. In terms of Regulation 5(1) of the Notification ibid which states " save as otherwise provided in the Act, Rules or Regulations made or directions issued there under, or with prior approval of the Reserve Bank (1) no person resident in India shall make any direct investment outside India".

4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA/3353/15.20.67/2019-20 dated December 31, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on January 13, 2020. The applicant was represented by Shri Jayesh N Mehta, Chartered Accountants, JNM associates, Bhavnagar. The representative, of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and was unintentional. 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 and submissions made by the applicant during the personal hearing. It was



observed that the applicant has contravened the provisions of Regulation 5(1) of Notification No.FEMA.120/2004-RB. The total amount of contravention is Rs 5,52,668/- and period of contravention is seven years and eleven months, approximately.

6. It has been declared in the compounding application dated July 20, 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 Annexure of the Compounding Application dated July 20, 2019, that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application. Accordingly, the above contraventions which are 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.

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. 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.54,145/-- (Rupees fifty four thousand one hundred and forty five only), will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 5(1) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 54,145/- (Rupees fifty four thousand one hundred and forty 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 20th day of January, 2020.

Sd/-
(S Arumugam)
Assistant General Manager