



In the

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

Present

**Ms. Usha Nambeesan**  
**Assistant General Manager**

Date: September 25, 2019  
**C.A. BGL 447/2019**

In the matter of

**Mr. BNG Kumar**  
No.315, 6<sup>th</sup> Main Road HAL 2<sup>nd</sup> Stage  
Indiranagar, Bengaluru - 560038  
**(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 June 21, 2019, received at this office of Reserve Bank of India, Bengaluru, on June 24, 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, as amended from time to time and AP (DIR Series) Circular No. 63 dated April 22, 2009.

2. The relevant facts of the case are as follows: The applicant is a resident shareholder in the company, M/s Lyearn Software Development India Private Limited, which was incorporated at Bengaluru, Karnataka, on March 28, 2017, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Central Registration Centre, Ministry of Corporate Affairs, Government of India.



3. The applicant, had received an inward remittance of ₹1,97,613.00, from the non-resident transferee, M/s. Lyearn INC, USA, on June 12, 2017. The resident transferor, Mr. BNG Kumar, Bengaluru, had transferred 19800 equity shares worth ₹1,98,000.00, to the non-resident transferee, M/s. Lyearn INC, USA, on June 12, 2017, and reported the same in form FC-TRS with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, on March 16, 2019, with a delay of one year seven months and five days, beyond the prescribed period of 60 days from the date of receipt of amount of consideration.

In terms Regulation 10 A (b) (i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB, and AP (DIR Series) Circular No. 63 dated April 22, 2009, 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 sought to be exempted from personal hearing with the Compounding Authority vide his letter dated September 16, 2019. The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.

5. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of:

(a) Regulation 10A (b) (i) read with Paragraph 10 of Schedule I to FEMA 20/2000-RB, due to delay in reporting of transfer of shares as detailed in Paragraph 3 above. The amount of contravention is **₹1,98,000.00**, and the period of delay is one year seven months and five days.

6. It has been declared in the compounding application dated June 21, 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 him, 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 **₹11,670.00 (Rupees Eleven Thousand Six Hundred and Seventy 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, 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 **₹11,670.00 (Rupees Eleven Thousand Six Hundred and Seventy only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> 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 Twenty Fifth day of September 2019.

**Sd/-**

**(Usha Nambeesan)**  
**Assistant General Manager**