



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Fort, Mumbai - 400 001

Present

Meenakshi Ganju
Deputy General Manager
Date: November 11, 2019
C.A. 4958/2019

In the matter of

Ms. Pratibha Agrawal
433, Akshay Girikunj III, Paliram Road Opp. Andheri West,
Mumbai-400058 11

(Applicant)

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

Order

The applicant has filed the application dated June 15, 2019 (received in the Reserve Bank of India on June 17, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded relate to acquiring of foreign securities by way of gift from a person resident in India thereby contravening Regulation 3 read with Regulation 22(1)(i) FEMA 120/ 2000-RB dated July 07, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

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



2.1 The applicant, a resident individual and spouse of Shri Virendra Agrawal, a Senior Vice President - Finance in Sterlite Industries India Limited from 2001 to 2008. Shri Virendra Agrawal was offered 8,000 shares of Vedanta Resources Plc, London, in March 2004 to be issued in two tranches. 1st tranche of 4,000 shares was allotted in March 2004 and 2nd tranche was issued in February 2005. The consideration paid for shares allotted in 2nd tranche was equivalent to face value i.e., USD 400 (INR 17,532). Out of the 4,000 shares of the second tranche, Shri Agrawal gifted 3,000 shares to the applicant (Ms. Pratibha Agrawal) and accordingly, share certificates for these 3,000 shares were issued in the name of the applicant. As per Regulation 22(1)(i), a person resident in India being an individual may acquire foreign securities by way of gift from a person resident outside India. In the instant case, the applicant received shares as gift from a resident India, thereby contravening Regulations 22(1)(i) read with 3 of FEMA 120.

3. The following are the observed contraventions:

Whereas Regulation 22(1)(i) read with Regulation 3 of Notification No. FEMA 120/2004-RB states that a person resident in India being an individual may acquire foreign securities by way of gift from a person resident outside India.

4. The applicant was given an opportunity for personal hearing vide letter No.FE.CO.CEFA.No./946/15.20.67/2018-19 dated August 19, 2019 for further submission in person and/ or producing documents, if any, in support of the application. Shri S K Ramasubramanian, representative of the applicant, during the personal hearing held on October 31, 2019, submitted that the contraventions on the part of the applicant were unintentional and arose out of lack of knowledge about the legal requirements associated with the transaction, which the applicant had entered with an intention of setting up business abroad. The representative of the applicant also requested for a lenient view on the contraventions, in view of the fact, that she had approached the transaction only from a technical background and could not understand the 'legal complexities' of the matter. The application for compounding was considered based on the averments made in the application as well as other documents and submissions made in this context by the applicant.



5. I have given my careful consideration to the documents on record and submissions made by the representative of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA120/2004-RB dated July 7, 2004:

(i) Regulation 22(1)(i) read with Regulation 3- The amount of contravention, as declared by the applicant is ₹22,49,232/- and the period of contravention as declared by the applicant is from September 8, 2006 to June 15, 2019.

6. It has been declared in the compounding application dated June 15, 2019, that the particulars given by the applicant in the application, are true and correct to the best of her knowledge and belief. It has been declared in the declaration dated June 15, 2019, furnished with 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 it/him/her thereafter. 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. 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 payment of an amount of ₹66,869/- (Rupees Sixty Six Thousand Eight Hundred and Sixty Nine only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of the Regulation 3 read with Regulation 22(1)(i) FEMA 120/ 2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹66,869/- (Rupees Sixty Six Thousand Eight Hundred and Sixty Nine only) which shall be deposited by the



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applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 day the 11th day of November, 2019

Sd/-

(Meenakshi Ganju)
Deputy General Manager