



In the

**RESERVE BANK OF INDIA**

Foreign Exchange Department

6, Sansad Marg

New Delhi-110001

Present

**Ajay Kumar**

**Regional Director for Delhi and CGM, New Delhi**

Date: July 15, 2019

CA No. NDL 392/2019

In the matter of

**Meenakshi Ramesh and Ramesh Mangaleshwaran**

Ananda, 11/1, Valliammai Achi Road, Kotturpuram, Chennai - 600085

**(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 applicants have filed the compounding application dated February 13, 2019 (received at Reserve Bank of India, New Delhi on February 21, 2019) 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 transfer of shares from Resident to Non-Resident in Form FC-TRS 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 applicants, both resident individual, had transferred 285 equity shares of M/s Rivigo Services Private Limited, a resident company, held by them to Mark Schwartz, USA, a non-resident individual, on September 13, 2017 for a consideration of ₹5,65,32,785.25 (Rupees Five Crore Sixty Five Lakh Thirty Two Thousand Seven Hundred Eighty Five and Paise Twenty Five only) received on September 13, 2017. The applicants reported the transfer of said shares in Form FC-TRS on September 8, 2018. There was, thus, a delay of 9 months and 27 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, 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. And, in terms of paragraph 10 of Schedule 1 to FEMA 20/2000-RB, 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 dated May 3, 2000, as then applicable.

3. The applicants were given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application.

Shri Shekhar Sharma, Assistant Company Secretary and Ms. Pooja Aggarwal,



Chartered Accountant appeared for personal hearing on May 2, 2019 on behalf of the applicants. The representatives of the applicant admitted the contravention committed by the applicants for which compounding has been sought. During the personal hearing, they submitted that delay was without any *malafide* or wilful intention but were mainly due to inadvertence. They 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. It was observed that the applicants 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 ₹5,65,32,785.25 (Rupees Five Crore Sixty Five Lakh Thirty Two Thousand Seven Hundred Eighty Five and Paise Twenty Five only) and the period of contravention is 9 months and 27 days.

5. It has been declared in the compounding application dated February 13, 2019 that the particulars given by the applicants in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking dated April 9, 2019 furnished as part of compounding application that the applicants are not under any enquiry/ investigation/ adjudication by any agency, as on the date of the application and have, in this regard, not informed of initiation of any such enquiry/ investigation/ adjudication proceedings against them, thereafter. It has further been declared that the applicants have 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 applicants 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 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 applicants and the



facts and circumstances of the case, I am persuaded to compound the contravention, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹51,500/- (Rupees Fifty One Thousand Five Hundred only)** will meet the ends of justice in the circumstances of this case.

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, by the applicants based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹51,500/- (Rupees Fifty One Thousand Five Hundred only)** which shall be deposited by the applicants 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 15th day of July 2019.

Sd/-  
**(Ajay Kumar)**  
**Regional Director for Delhi and CGM, New Delhi**