



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
Md. Shakir Hasan
Assistant General Manager

Date: December 18, 2019
CA No. NDL 496/2019

In the matter of
Rupinder Singh Bedi
C-339, Defence Colony, New Delhi 110024
(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 applicant has filed the compounding application dated July 23, 2019 (received at Reserve Bank of India, New Delhi on July 25, 2019) and addendum dated August 2, 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 refund of excess money received for transfer of shares, in terms of Regulation 10A(b)(i) of FEMA 20/2000-RB read with paragraph 10(i) 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 applicant, a resident individual, had received ₹56,102.24 from Climacell Inc, USA, a non- resident company (the transferee), on March 10, 2017 as consideration



for transfer of 9998 equity shares of the Indian Company, M/s Climacell In Private Limited, engaged in weather forecasting activities.

(b) The applicant had filed Form FC-TRS (reference number RF 169535) for the above transaction, through e-Biz Portal on May 10, 2017. Vide Objection Memo dated May 16, 2017, AD Bank sought certain clarifications /documents including mismatch of the address of the remitter in KYC and FIRC. The mismatch could not be rectified due to closure of the bank account of the transferee. Later, a new bank account was opened by the transferee and the applicant again received the consideration for transfer of 9998 equity shares, from the transferee, on February 14, 2018. The reporting was done again through e-Biz Portal vide Form FC-TRS (reference number RF 225972) on April 5, 2018 and same the was approved by the AD Bank on April 24, 2018. There was, thus, excess share transfer money amounting to ₹56,102.24 received by the applicant for which approval was sought from the Reserve Bank of India for refund through their AD bank on May 24, 2019. Approval for refund was granted on June 27, 2019 and the excess amount was refunded on July 26, 2019 with delay of 2 years, 2 months and 17 days in contravention of Regulation 10A(b)(i) read with paragraph 10(i) of Schedule 1 to FEMA 20/2000-RB, as amended from time to time. Whereas, in terms Regulation 10A(b)(i) of FEMA 20/2000-RB, as then applicable, 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. Further, in terms of paragraph 10(i) of Schedule 1 to FEMA 20/2000-RB, as then applicable, 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 a contravention of Regulation 10A(b)(i) of FEMA 20/2000-RB read with paragraph 10(i) of Schedule 1 to FEMA 20/2000-RB, as amended from time to time.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Rupinder Singh Bedi appeared for personal hearing on December 13, 2019. The applicant admitted the contravention committed by him for which compounding has been sought. During the personal hearing, he submitted that contravention was without any *malafide* or wilful intention but was mainly due to delay in processing the refund documents by the AD bank. He 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. Accordingly, I hold that the applicant has contravened the provisions of Regulation 10A(b)(i) of FEMA 20/2000-RB read with paragraph 10(i) of Schedule 1 to FEMA 20/2000-RB, on account of delay in refund of excess money received for transfer of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹56,102.24 (Rupees Fifty Six Thousand One Hundred Two and Paise Twenty Four only) and the period of delay is 2 years, 2 months and 17 days.

5. It has been declared in the compounding application dated July 23, 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 also been declared in the declaration 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, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA. 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.

6. In terms of Section 13 of 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 compound the contraventions, 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 **₹12,623.00 (Rupees Twelve Thousand Six Hundred and Twenty Three 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(i) of Schedule 1 to FEMA 20/2000-RB, as amended from time to time, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹12,623.00 (Rupees Twelve Thousand Six Hundred and Twenty Three only)** which shall be deposited by the applicant 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 18th day of December 2019.

Sd/-
(Md. Shakir Hasan)
Assistant General Manager