



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Ajay Kumar Misra**  
**Chief General Manager**

Date: July 19, 2019  
CA No. 4931/2019

In the matter of

**Dharmpal Agarwal (for self and on behalf of Vineet Agarwal, Chander Agarwal,  
Urmila Agarwal, Priyanka Agarwal & Chandrima Agarwal)**

**(Applicant)**

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

**Order**

The applicant (on behalf of self and Shri Vineet Agarwal, Shri Chander Agarwal, Ms. Urmila Agarwal, Ms. Priyanka Agarwal and Ms. Chandrima Agarwal jointly referred to as 'others' hereafter) has filed a compounding application dated April 24, 2019 (received in the Reserve Bank of India on May 08, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant (on his and others' behalf) has sought to be compounded for availing of foreign currency loan overseas, for the purpose of purchasing property abroad, in contravention of Regulation 3 of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 3/2000-RB).



2. The relevant facts of the case are as follows: The applicant and the others, all resident individuals, jointly acquired a residential property in Singapore at a total cost of SG\$ 3,032,320. While a portion of the cost i.e. SG\$ 606,464 was met through remittances under LRS, remaining amount of SG\$ 2,425,856 (INR 6,78,26,933/-) was paid by availing a loan from OCBC Bank, Singapore. The loan was availed on April 13, 2007. While remitting money under LRS for purchase of property is permitted, availing of foreign currency loan overseas for the purposes was not permitted and was in contravention of Regulation 3 of FEMA 3/2000-RB. The applicant and the others have sold the property and repaid the loan on October 11, 2016.

3. Regulation 3 of Notification No. FEMA 3/2000-RB states that, "Save as otherwise provided in the Act, Rules or Regulations made thereunder, no person resident in India shall borrow or lend in foreign exchange from or to a person resident in or outside India...."

4. The applicant (and others) was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA/7555/15.20.67/2018-19 dated June 24, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on July 05, 2019 during which Shri R.C. Pahuja, and Shri Keval Bhide, authorized representatives of the applicant (and others), were present. The representatives of the applicant (and others) submitted that the applicant (and others) had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter. They further submitted, vide e-mails dated July 11 and July 12, 2019, that instalments for repayment of loan and payment of interest (EMIs) with respect to the loan were met out of the proceeds of lease rental received on the lease of the property. In the initial years of loan repayment, reduction in principal amount of loan was small and the interest component made a large part of the EMI. Therefore, considering the total amount paid under EMIs on the loan, over the years, the applicant ended up effectively re-paying more than the amount of loan. The



representatives of the applicant (and others) submitted that the applicant (and others) had not made any gains through availing loans overseas for acquisition of the property abroad.

It has been declared in the compounding application dated April 24, 2019, that the particulars given by the applicant (and others) in the application are true and correct to the best of his knowledge and belief. It has also been declared in the declaration furnished along with the compounding application that the applicant (and others) were not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not been informed of initiation of any such enquiry/investigation/adjudication proceedings against him (them) 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 others) 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.

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 and thereafter.

6. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant (and others) during the personal hearing. Accordingly, I hold that the applicant (and others) has contravened the provisions of Regulation 3 of Notification No. FEMA 3/2000-RB. The amount of contravention is Rs. 6,78,26,933/- and period of contravention is nine years and six months approximately.

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 others) 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 Rs. 5,58,702/- (Rupees five lakh fifty eight thousand seven hundred and two only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 3 of Notification No. FEMA 3/2000-RB, by the applicants as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 5,58,702/- (Rupees five lakh fifty eight thousand seven hundred and two only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> 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 of accordingly.

Dated this the 19th day of July, 2019

**Sd/-**  
**(Ajay Kumar Misra)**  
**Chief General Manager**