



In the

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

Present

Meghna Singh
Assistant General Manager

Date: January 30, 2018
CA No 4578/ 2017

In the matter of

Gaurav Bamania
A9, 1302 Elita Promenade Phase 7
JP Nagar Bangalore 560078

(Applicant)

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

Order

The applicant has filed the application dated November 14, 2017 (received in the Reserve Bank on November 22, 2017), 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 are payment of consideration towards investment in Indian company by an NRI through a resident account. The above amounts to the contravention of Para 8(a) of Schedule 3 of Foreign Exchange Management (Deposit) Regulations, 2000 notified vide Notification No. FEMA 5/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as FEMA 5) and Para 3 of Schedule 4 of 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 as amended from time to time (hereinafter referred to as FEMA 20)

2. The relevant facts are as under:

(a) The applicant an NRI acquired 3,790 shares of an Indian company Edunetwork Pvt Ltd., and paid the consideration amount of Rs.56,850 on August 03, 2015. The applicant paid the consideration amount through his resident account and not by way of inward remittance through normal banking channel from abroad or out of funds held in NRE/FCNR/NRO account maintained with a bank in India. Payment of consideration towards investment in an Indian company by an NRI through resident account is a contravention of the provisions of Para 8(a) of Schedule 3 of FEMA 5 and Para 3 of Schedule 4 of FEMA 20.

(b) The applicant was advised vide Reserve Bank letter dated October 26, 2017 (through the Authorised dealer HDFC Bank Ltd.) to apply for regularization of the contraventions subject to compounding. The applicant informed Reserve Bank of the designation of the resident account as an NRO account vide letter dated November 14, 2017 and applied for compounding vide compounding application dated November 14, 2017. The contraventions have since been examined and regularized by the Reserve Bank.

3. Para 8(a) of Schedule 3 of FEMA 5 states that "When a person resident in India leaves India for a country (other than Nepal or Bhutan) for taking up employment, or for carrying on business or vocation outside India or for any other purpose indicating his intention to stay outside India for an uncertain period, his existing account should be designated as a Non-Resident (Ordinary) account."

Further, in terms of Para 3 of Schedule 4 of FEMA 20 "The consideration for investment under this Schedule shall be paid by way of inward remittance through normal banking channel from abroad or out of funds held in NRE/FCNR/NRO account maintained with a bank in India."



4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA No./5901/15.20.67/2017-18 dated January 10, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant sought to be exempted from the personal hearing with the Compounding Authority vide his e-mail dated January 11, 2018. 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. It was observed that the applicant has contravened the provisions of Para 8(a) of Schedule 3 of FEMA 5 and Para 3 of Schedule 4 of FEMA 20. The amount and period of contravention is as follows:

Amount of contravention– Rs. 56,850/- and period of contravention – 2 years 4 months approximately.

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 applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs.26,530/- (Rupees twenty six thousand five hundred thirty only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Para 8(a) of Schedule 3 of FEMA 5 and Para 3 of Schedule 4 of FEMA 20, on payment of a sum of Rs.26,530/- (Rupees twenty six thousand five hundred thirty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th 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 accordingly.

Dated this the thirtieth day of January, 2018

Sd/-

(Meghna Singh)
Assistant General Manager