



In the

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

Present

Dr. Tuli Roy
General Manager

Date: January 05, 2018
CA No. 4536/2017

In the matter of

Shri Mahesh Ramakrishnan
E 31/32, TVH Park Rozalia, Anand Nagar,
Thoraipakkam, Chennai-600 096

(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 there under, I pass the following

Order

The applicant has filed a compounding application dated September 27, 2017 (received in the Reserve Bank of India on October 9, 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 relates receipt of remittance through non-banking channel.

2. The applicant is a Director in the company M/s M.S.R. Garments Private Limited and is engaged in the business of manufacturing men's custom clothing. Mr Mahesh Ramakrishnan and Mr Ramakrishnan Subramanyam, both Indian residents are the two directors of the company. In 2015-16, the applicant and Mr. Ramakrishnan Subramanyam, entered into an understanding with Mr Ian Meirs and Mr James Sleater, acting collectively for M/s Cad and the Dandy Limited, a company incorporated in United Kingdom for purchase of 66.66% paid up equity capital of the



company at an aggregate price of Rs 1,18,72,800. The sale consideration of Rs 60,40,904 was received by Mahesh Ramakrishnan on December 16, 2015 in his bank account with HDFC Bank. However, the sale consideration was received through a third party intermediary, vis. Transfer wise. This was in contravention of Para 10(iv) of Schedule I of Notification No. FEMA 20/2000-RB. The transaction was reversed and the refund took place on June 6, 2017, subject to compounding.

3. In terms of Paragraph 10 (iv) of Schedule I to Notification No. FEMA 20/2000-RB, “(iv) The sale consideration in respect of shares or convertible debentures remitted into India through normal banking channels, shall be subjected to a KYC check by the remittance receiving AD bank at the time of receipt of funds. In case, the remittance receiving AD bank is different from the AD bank handling the transfer transaction, the KYC check shall be carried out by the remittance receiving bank and the KYC report shall be submitted by the customer to the AD bank for carrying out the transaction along with the form FC-TRS.” Receipt of sale consideration through channels other than a banking channel is therefore, a contravention of Paragraph 10(iv) of Schedule I to Notification No. FEMA 20/2000-RB as above.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA/4666/15.20.67/2017-18 dated November 24, 2017 for further submission in person and/or producing documents, if any, in support of the application. Ms Sangeeta Jhunjunwala, Partner, Khaitan Legal Associates, represented the applicant during the personal hearing held on December 21, 2017. The representative of the applicant admitted the contravention for which compounding has been sought and submitted that the applicant had reversed the transaction. The application for compounding is, therefore, being considered on the basis of 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 the submissions made by the applicant. Accordingly, I hold that the applicant has contravened the provisions of FEMA, 1999 issued in terms of Paragraph 10(iv) of



Schedule I to Notification No. FEMA 20/2000-RB. The contravention is being reckoned from the date of receipt of funds till the date the transaction was reversed.

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. 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 contraventions are to be compounded and I consider that an amount of Rs. 83,300/- (Rupees Eighty three thousand three hundred only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Paragraph 10(iv) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 an amount of Rs. 83,300/- (Rupees Eighty three thousand three hundred 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 of accordingly.

Dated this the fifth day of January, 2018

Sd/-

(Dr. Tuli Roy)
General Manager