



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

Shekhar Bhatnagar
Chief General Manager

Date: April 18, 2018
CA No 4602 / 2017

In the matter of

VD Global Private Limited
HW 5012-13, Bharat Diamond Bourse
Bandra Kurla Complex, Bandra (East)
Mumbai - 400051

(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 December 12, 2017 (received at the Reserve Bank on December 13, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are delay in submission of Annual Performance Reports (APRs) and repatriation of disinvestment proceeds beyond stipulated period of 90 days, thereby contravening the provisions of Regulations 15(iii) and 16(2) respectively of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2000, notified vide Notification No.



FEMA.120/2000-RB dated July 7, 2004 and as amended from time to time (hereinafter referred to as Notification No. FEMA.120/2000-RB).

2. The relevant facts of the case are as follows: The applicant, earlier Vallabhbai Dhanjibhai & Co, a partnership firm registered under the Indian Partnership Act, 1932, got converted to a private limited company viz. VD Global Private Limited under Part IX of the Companies Act, 1956 on March 27, 2014 (CIN U36993MH2014PTC255083).

The applicant remitted HKD 2,000,000 (INR 1,04,60,000/-) on June 06, 2007 towards its stake in a Joint-Venture (JV) in Hong Kong viz VRAMS Impex Ltd. The overseas JV was incorporated on March 22, 2007. The stake in the overseas JV was disinvested by the applicant on September 14, 2016 while the disinvestment proceeds amounting to HKD 2,000,000 were repatriated on May 24, 2017. Non-repatriation of the dues receivable from the overseas JV within the time period prescribed was in contravention of Regulation 16(2) of FEMA 120/2004-RB.

Further all the APRs since inception of the JV i.e. for the year ending March 31, 2008 to the year ending March 31, 2016 (09 years) were submitted after the stipulated period which was in contravention of regulation 15(iii) of FEMA 120/2004-RB.

3. In terms of Regulation 15 (iii) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, "An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall submit to the Reserve Bank, through the designated Authorized Dealer, every year on or before a specified date, an Annual performance Report (APR) in Part II of Form ODI in respect of each JV or WOS outside India.....".

Regulation 16(2) of Notification *ibid* states, " Sale proceeds of shares/securities shall be repatriated to India immediately on receipt thereof and in any case not later than 90 days from the date of sale of the shares/securities and documentary evidence to this effect shall be submitted to the Regional office of the Reserve Bank through the designated authorized dealer".



4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/8039/15.20.67/2017-18 dated March 26, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on April 17, 2018 during which Shri Rajiv Shah, Chartered Accountant, Shri Vipul Jakharya, and Shri K. Ramasubramanian, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated December 12, 2017, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been subsequently declared in the declaration received in RBI on March 07, 2018, furnished as an addendum to 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. 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 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.

5. 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 applicant has contravened the provisions of Regulations 15(iii) and 16(2) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as



amended from time to time. The amount of contravention is Rs. 1,04,60,000/- (HKD 2,000,000) and the period of contravention ranges from 5 months to 9 years 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. 1,92,300/- (Rupees one lakh ninety two thousand three hundred 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 contraventions committed by the applicant namely, Regulations 15(iii) and 16(2) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 1,92,300/- (Rupees one lakh ninety two 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 accordingly.

Dated this the eighteenth day of April, 2018

Sd/-

(Shekhar Bhatnagar)
Chief General Manager