



In the

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

Present

Vandana Khare
General Manager

Date: July 19, 2018
CA No. 4696/2018

In the matter of

Rajasthan Hospitals Limited
Swasthya Bhavan, Near Trimurthy Circle
Narain Singh Road, Jaipur- 302 004

(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 April 25, 2018 (received in the Reserve Bank on May 02, 2018) 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 is availing of loan from NRI without the issue of Non-Convertible Debentures (NCDs) made by public offer. The above was in contravention of Regulation 5(i) of Foreign Exchange Management (Borrowing or Lending in Rupees) Regulations, 2000 notified vide Notification No. FEMA 4 /2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 4 /2000-RB).



2. The relevant facts are as under:

The company borrowed Rs. 49.80 lakh from NRI Dr. Jawahar Lal Taunk, s/o Shri Kanahaiya Lal Taunk resident of USA, through wire transfer from USA on March 27, 2017. The transaction was reversed on April 4, 2018 when the above amount was refunded to the lender.

As the borrowing from the NRI was not through the issue of Non-Convertible Debentures (NCDs) made by public offer, the above was in contravention of the provisions of Regulation 5(i) of Notification No. FEMA 4/2000-RB dated 3rd May 2000, as amended from time to time.

3. In terms of Regulation 5 (i) of Notification No. FEMA 4/2000-RB dated May 03, 2000 as amended from time to time "subject to the provisions of sub-regulations (2) and (3), a company incorporated in India may borrow in rupees on repatriation or non- repatriation basis, from a non-resident Indian or a person of Indian origin resident outside India or an overseas corporate body (OCB), ... by way of investment in Non-convertible Debentures (NCDs) through public offer." The primary responsibility of ensuring that the loan raised/utilized are in conformity with the Reserve Bank regulations/directions/circulars is that of the concerned borrower.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA.No./10358/15.20.67/2017-18 dated June 15, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was scheduled to be held on June 25, 2018. However, vide email dated June 25, 2018, Dr. S.S Agarwal, Director, of the company, informed of his inability to attend the personal hearing and enclosed a letter of even date explaining the sequence of events leading to the contravention which as stated was unintentional and seeking leniency. The application is, therefore, being considered on the basis of the averments made in the application and the documents produced.



5. It has also been declared in the compounding application dated April 25, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. The applicant has 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. 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.

6. 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 Regulation 5 (i) of Notification No. FEMA 4/2000-RB dated May 03, 2000 as amended from time to time. The amount of contravention is INR 49.80 lakh and the period of contravention is 1 year and 7 days.

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 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 INR 77,400.00 (Rupees Seventy seven thousand and four hundred only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 5 (i) of Notification No. FEMA 4/2000-RB dated May 03, 2000 as amended from time to time on payment of a sum of INR 77,400.00 (Rupees Seventy seven thousand and four 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 nineteenth day of July 2017

Sd/-

(Vandana Khare)
General Manager