



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: August 13, 2018
CA No 4719 / 2018

In the matter of

Anjali Ashok Walke
D-29, Sushila
Mapusa Housing Board Colony
Mapusa, Goa - 403507

(Applicant)

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

Order

The applicant has filed the application dated May 29, 2018 (received in the Reserve Bank on June 06, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for delay in reporting the transfer of shares in Form FC-TRS beyond the stipulated time period, in contravention of Regulation 10A(b)(i) read with para 10 of Schedule 1 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 Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant, a resident individual by the name of Ms. Anjali Ashok Walke, held certain shares in three companies, namely, M/s Esteem Industries Private Limited, M/s Grand Organics Private Limited and M/s Venus Ethoxyethers Private Limited. She transferred the shares to M/s Harcos (India) LLC, an entity incorporated in USA in December 2015 (wholly owned by M/s Harcos Chemicals Inc., USA). The details of the share transfer are as follows:

Name of the company whose shares transferred	Name of the transferor	Name of the transferee	No. of shares transferred	Amount of consideration received (INR)	Date of receipt	Date of reporting to RBI
Esteem Industries Private Limited	Anjali Ashok Walke	Harcos (India) LLC	22500	6,06,14,325.00	09.05.2017	12.09.2017
Grand Organics Private Limited	Anjali Ashok Walke	Harcos (India) LLC	13500	69,47,370.00	09.05.2017	12.09.2017
Venus Ethoxyethers Private Limited	Anjali Ashok Walke	Harcos (India) LLC	6655	1,21,89,896.95	09.05.2017	12.09.2017
Total				7,97,51,592.95		

There was a delay in reporting the abovementioned share transfer in Form-FCTRS beyond the stipulated time period of 60 days, in contravention of Regulation 10A(b)(i) read with para 10 of Schedule 1 of Notification No. FEMA 20/2000-RB.



3. Regulation 10(A)(b)(i) of Notification No. FEMA 20/2000-RB states that, “A person resident in India who proposes to transfer to a person resident outside India not being erstwhile OCBs, any shares or convertible debentures or warrants of an Indian company under the Foreign Direct Investment Scheme, whose activities fall under Annex B to Schedule I, shall, subject to sectoral limits specified therein, transfer such shares or convertible debentures or warrants without prior approval of the Reserve Bank if the same is by way of sale, subject to the parties concerned adhering to the pricing guidelines, documentation and reporting requirements for such transfers, stipulated by the Reserve Bank from time to time.”

Further, Paragraph 10(i) of Schedule I of the abovementioned regulations specifies a time period of 60 days from the date of receipt or payment of the amount of consideration, within which the transferor/transferee, resident in India, shall submit a report in the Form FC-TRS.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/672/15.20.67/2018-19 dated August 01, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on August 10, 2018 during which Shri Yatin Desai, Chartered Accountant and Ms. Dipti Udeshi, 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 May 29, 2018, that the particulars given by the applicant in the application are true and correct to the best of her knowledge and belief. It has also been declared in the declaration furnished along with 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. 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.

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 Regulation 10A(b)(i) read with para 10 of Schedule 1 of Notification No. FEMA 20/2000-RB. The amount of contravention is Rs. 7,97,51,592.95/- and the period of contravention is 2 months 2 days 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. Rs. 22,500/- (Rupees twenty two thousand five 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 contravention committed by the applicant namely, Regulation 10A(b)(i) read with para 10 of Schedule 1 of Notification No. FEMA 20/2000-RB, on payment of a sum of Rs. 22,500/- (Rupees twenty two thousand five 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 thirteenth day of August, 2018

Sd/-

(Ajay Kumar Misra)
Chief General Manager