



In the

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

Present

Manmohan
Deputy General Manager

Date: September 3, 2018
C.A. 4661/2018

In the matter of

Expedition Voyages
130/B, Jodhpur Park, Ground Floor, Kolkata 700 068
(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 Feb 28, 2018 (received in the Reserve Bank on March 13, 2018) and addendum dated March 23, 2018 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded relate to entry into partnership with a person resident outside India without obtaining prior approval in contravention of Regulation 3 of Foreign



Exchange Management (Investment in Firm or Proprietary Concern in India) Regulations, 2000 notified vide Notification No. FEMA 24/2000-RB dated 3rd May 2000 as then applicable (hereinafter referred to as Notification No. FEMA 24/2000-RB).

2. The relevant facts of the case are as follows: Expedition Voyages is a Partnership Firm formed vide a Deed of Partnership made on March 23, 2015 between Mr. Karl Espen Fjermeros a resident of New York and Mr. John Jayanta Ambat a resident of India. The main business of the partnership firm is to carry on travel and tourism business from India by undertaking cruise travel which include ultra-luxury cruises also, marketing expeditions and all allied services. As per Deed of Partnership, the profit and loss of the business of the firm shall be shared between the partners in the ratio of 70% (Mr. Karl Espen Fjermeros) and 30% (Mr. John Jayanta Ambat). Mr. Karl Espen Fjermeros remitted total amount of Rs.38,51,373.22 in five tranches. Details of foreign inward remittances received from Mr. Karl Espen Fjermeros by the applicant company are given below:

S.No.	Name of Remitter	Amount (Rs.)	Date of Receipt
1.	Mr. Karl Espen Fjermeros	12,27,915.41	15-07-2015
2.	Mr. Karl Espen Fjermeros	6,18,700.00	05-08-2015
3.	Mr. Karl Espen Fjermeros	6,15,244.00	28-10-2015
4.	Mr. Karl Espen Fjermeros	6,25,828.00	23-11-2015
5.	Mr. Karl Espen Fjermeros	7,63,685.81	28-12-2015
		38,51,373.22	

The applicant has reversed the transaction and remitted back the total amount of Rs.38,51,373.22 on May 28, 2018 to Mr. Karl Espen Fjermeros.

2.1 The firm has not taken required permission from Reserve Bank of India with regards to investment by a person resident outside India by way of contribution to capital of the firm thereby contravening Regulation 3 of FEMA 24/2000-RB.

3. The applicant committed the following contraventions of FEMA provisions as laid down under Notification No. FEMA 24/2000-RB, as then applicable:-

3.1 In terms of Regulation 3 of FEMA 24/2000-RB, "Save as otherwise provided in the Act or rules or regulations made or directions or orders issued thereunder, no person



resident outside India shall make any investment by way of contribution to the capital of a firm or a proprietary concern or any association of persons in India.

Provided that the Reserve Bank may, on an application made to it, permit a person resident outside India subject to such terms and conditions as may be considered necessary to make an investment by way of contribution to the capital of a firm or a proprietary concern or any association of persons in India.”

Whereas the applicant has not taken the required permission from Reserve Bank of India before entering into partnership with resident outside India thereby contravening the said FEMA regulation.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FED.CO.CEFA/684/15.20.67/2018-19 dated August 01, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant vide letter dated August 07, 2018 submitted that he did not wish to attend the personal hearing and that the case be disposed on the basis of the documents submitted. 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 submitted along with the application.

5. I have given my careful consideration to the documents on record and thereafter. Accordingly, I hold that the applicant has contravened the Regulation 3 of FEMA 24/2000-RB. The contravention relates to an amount of **Rs.38,51,373.22/-** and the period of contravention ranges from **two years ten months to two years five months approximately.**

6. It has been declared in the compounding application dated February 28, 2018 that the particulars given by the applicant in the application are true and correct to the best of his knowledge and belief. It has been declared in the undertaking submitted with the application by the applicant 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 informed of initiation of any such enquiry/investigation/adjudication proceedings against him thereafter as required in



terms of the said undertaking. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made/undertaking furnished 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/undertakings are subsequently discovered to be false and/or incorrect.

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. 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 contravention is to be compounded and I consider that an amount of **Rs. 73,108/- (Rupees seventy three thousand one hundred and eight only)** will meet the ends of justice in the circumstances of the case.

8. Accordingly, I compound the admitted contraventions namely, the contravention of Regulation 3 of Notification No. FEMA 24/2000-RB by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **Rs. 73,108/- (Rupees seventy three thousand one hundred and eight 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 third day of September, 2018

Sd/-

Manmohan

Deputy General Manager