



**In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
EDC Complex, Patto Plaza,
Panaji 403 001, Goa, INDIA**

Present

**Shri S. T. Kannan
General Manager**

Date: October 26, 2018

CA No: PAN15

In the matter of

**Shri Nitin Gupta
1102, Atlantis Raheja Acropolis 1 Deonar,
T.F. Donar, Kurla, Mumbai – 400 088**

(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 01, 2018 (received at Reserve Bank of India, Panaji on September 06, 2018) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The applicant has sought to be compounded for delay in reporting the transfer of shares in form FCTRS beyond the stipulated time period, in contravention of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to 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 3rd, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as under:

The applicant, a resident individual by the name of Shri Nitin Gupta, resides at 1102, Atlantis Raheja Acropolis 1 Deonar, T.F. Donar, Kurla, Mumbai – 400 088. He had received Rs.92,67,622/- from Mr. Joseph Benardello, USA towards transfer of 1,18,300 equity shares of Indian company M/s Inventurus Knowledge Solutions Pvt Ltd on November 03, 2006 and filed form FC-TRS to AD bank on December 06, 2016 with delay of approximately 10 years.

Reserve Bank, Panaji Regional Office, Panaji vide letter no. FED.PNJ: 378 / 02.01.986 / 2017-18 dated January 10, 2018 advised the AD bank to certify form FC-TRS. The delay in filing forms FC-TRS is in contravention of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB. Whereas in terms of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I, the transferor or transferee resident has to adhere to the reporting requirements as specified by the Reserve Bank from time to time. Further, in terms of A.P.(DIR Series) Circular No. 63 dated April 22, 2009, form FC-TRS should be submitted to the AD Category-I bank, within 60 days from the date of receipt/payment of the amount of consideration.

3 The applicant was given an opportunity for personal hearing vide letter no. PNJ.FED: 212/02.01.986/2018-19 dated October 09, 2018 for further submission in person and/or producing documents, if any, in support of the application. Mr. Arindrajit Datta and Mr. Gururaj Mehari, representatives from the applicant appeared for the personal hearing on October 24, 2018. They admitted the contraventions committed by the company for which compounding has been sought. They further stated that there has been no unfair gain to any party due to above contravention. In view of the above foregoing, the representatives requested that the matter may be viewed leniently. The application



for compounding is, therefore, being considered on the basis of the averments made in the application as well as submissions made in this context during the personal hearing.

4. It has been declared in the compounding application dated September 01, 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 also been declared in the declaration 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 him 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.

5. I have given my careful consideration to the documents on record and in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in filing of Form FC-TRS on transfer of shares from resident to a non-resident with their designated AD bank as detailed in paragraph 2 above. The amount of contravention is Rs.92,67,622/- and the period of contravention is 10 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 relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am inclined to



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take a lenient view on the amount for which the contravention is to be compounded and I consider that an amount of **Rs.80,000/- (Rupees Eighty Thousand only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely the contravention of Regulation 10(A)(b)(i) of Notification No. FEMA 20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of a sum of **Rs.80,000/- (Rupees Eighty Thousand only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC, Patto Plaza, Panaji, Goa 403 001 by a demand draft drawn in favour of the "Reserve Bank of India, 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 twenty sixth day of October 2018.

Sd/-

(S. T. Kannan)
General Manager