



In the

Reserve Bank of India
Foreign Exchange Department
Third Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

Rekha G. Warriar
Regional Director for West Bengal and Sikkim

Date: March 24, 2017
C.A.051 /2016

In the matter of

M/s Sahal Business Pvt Ltd.
62 A, Hazra Road,
Kolkata – 700 019
West Bengal

(Applicant)

In exercise of the powers 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 October 6, 2016 (received at the Reserve Bank on October 13, 2016) 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 delay in filing of form FC-TRS in terms 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 follows: The applicant was incorporated on March 25, 1991 under the Companies Act, 1956 and is engaged in the business of forging, pressing, stamping and roll-forming of metal, powder metallurgy.



M/s Gustav Wolf Cord & Wire Private Ltd, having its registered office at 62A Hazra Road, P S Gariahat, Kolkata, was incorporated on December 18, 1996, with inflow of foreign investment from its parent company, M/s Gustav Wolf Seil-Und Drahtwerke GmbH & Co, Germany (transferor). As the Indian company was not performing, an agreement between M/s Gustav Wolf Seil-Und Drahtwerke GmbH & Co, Germany and the applicant was entered into, on May 20, 2015 for sale of equity shares of M/s Gustav Wolf Cord & Wire Private Ltd held by M/s Gustav Wolf Seil-Und Drahtwerke GmbH & Co, Germany to the applicant.

The applicant remitted Rs 1,21,12,500 (Euro 1,66,517.73) towards purchase of 14,25,000 equity shares of M/s Gustav Wolf Cord & Wire Private Ltd, Kolkata from M/s Gustav Wolf Seil-Und Drahtwerke GmbH & Co, Germany on June 9, 2015 and filed form FC-TRS with AD bank on June 25, 2016.

Reserve Bank, Kolkata Regional Office, Kolkata vide letter dated August 31, 2016 advised the AD bank to take form FC-TRS on record and AD certified the form FC-TRS on August 31, 2016. The delay in filing form 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 the Reserve Bank's letter No.KOL.FED.FID.2832 /03.40.151/2016-17 dated March 15, 2017 for further submission in person and/or producing documents, if any, in support of the application. Shri Anand Prakash (FCA) appeared for personal hearing on behalf of the applicant on March 23, 2017. They admitted to committing the contravention as stated in paragraph 2 above for which compounding has been sought. During the personal hearing, the applicant submitted that the delay was inadvertent and without malafide intention and was caused due to absence of concerned person and requested to take a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submission made in this context by the applicant during personal hearing and thereafter.



4. I have given careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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 a non-resident to resident with their designated AD bank as detailed in paragraph 2 above. The contravention relates to an amount of Rs.1,21,12,500 /- and the period of contravention is 10 months 16 days approximately.

5. 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, after considering the relevant facts of the case and the circumstances of the case as stated in the foregoing paragraphs, I am inclined to take a lenient view on the amount for which the contravention is to be compounded and I consider that an amount of **Rs 55,833/- (Rupees Fifty Five Thousand Eight Hundred Thirty and Three only)** meets the end of justice.

6. 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 an amount of **Rs 55,833/- (Rupees Fifty Five Thousand Eight Hundred Thirty and Three only)** which is to be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Third Floor, 15 N.S. Road, Kolkata- 700 001 by a demand draft drawn in favour of "Reserve Bank of India" and payable at "Kolkata" 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 Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

The application is disposed of accordingly.

Dated this the twenty fourth day of March, 2017.

Sd/-

(Rekha G. Warriar)
Regional Director