



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: March 03, 2017  
C.A. HYD 189

In the matter of

Shri AKV Jogi Naidu  
C/o M/s Vizag Hospital & Cancer Research Centre  
Plot No.1, Sector 7  
MVP Colony, Visakhapatnam-530017  
Andhra Pradesh

**(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 compounding application dated January 25, 2017 received on January 27, 2017 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) Wrong mode of payment for shares transferred to persons resident outside India (ii) Delay in filing FCTRS in terms of Paragraph 8 and Regulation 10(A)(b)(i) *ibid* read with Paragraph 10 respectively of Schedule 1 to Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) notified vide Notification No. FEMA.20/2000-RB dated 3rd May 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:

(a) The applicant is a resident individual, a legal professional, who is a shareholder and Director in M/s Vizag Hospital & Cancer Research Centre Private Limited (VHCRC) . He had sold and transferred 101620 equity shares of VHCRC to six NRIs in 2008. VHCRC was holding the funds remitted by the six NRIs through normal banking channel to the erstwhile Janaki Hospitals Pvt Ltd, Visakhapatnam by virtue of the merger of Janaki Hospitals Pvt Ltd with VHCRC through a court order dated 25.08.2006. As per the instructions of the non-resident investors, VHCRC had paid the sale consideration to the applicant-resident.

(b) The applicant had used a wrong mode of payment in contravention of Para 8 of FEMA 20, for sale of shares by way of transfer to persons resident outside India with delay as indicated below:

Sl. No	Name of Remitter	Date of receipt of share application money (Janaki Hospitals)	Amount (₹)	Date of payment of money by VHCRC to Jogi Naidu	Date of transfer of shares
1	Srinivas Rao Vonna	03.06.2005 26.04.2006 24.07.2006	40,02,284	19.07.2005	29.10.2008
2	Nagendra Myneni	23.06.2005	37,52,034		
3	Sankara Rao Kothakota	27.06.2005	82,56,820		
4	Suresh Doki	07.07.2005	39,75,686		
5.	Muralidhara Varma Penubothu	22.06.2005	68,50,272		
6.	Suresh Kumar Kota	25.06.2005 24.05.2006	22,26,224		
	Total		2,90,63,320		



The total amount involved in the transaction is ₹ 2,90,63,320/- and the period of contravention of 3 years 3 months 11 days is from the date of receipt by Shri Jogi Naidu till the date of transfer of shares to non-residents.

(c) The applicant delayed in the filing of FCTRS with delays beyond 60 days from the date of receipt of consideration in contravention of Regulation 10 (A) (b) (i) read with Paragraph 10 of FEMA 20.

Sl. No.	Name of Remitter	Date of Receipt of receipt of share application money (Janaki Hospitals)	Amount (₹)	Date of payment of money by VHCRC to Jogi Naidu	Date of filing of FCTRS
1	Srinivas Rao Voonna	03.06.2005 26.04.2006 24.07.2006	40,02,284	19.07.05	18.12.15
2	Nagendra Myneni	23.06.2005	37,52,034		
3	Sankara Rao Kothakota	27.06.2005	82,56,820		
4	Suresh Doki	07.07.2005	39,75,686		
5.	Muralidhara Varma Penubothu	22.06.2005	68,50,272		
6.	Suresh Kumar Kota	25.06.2005 24.05.2006	22,26,224		
	Total		2,90,63,320		

The applicant filed Form FC-TRS for issue of shares amounting to ₹2,90,63,320/- with a delay of 10 years 3 months approximately beyond the prescribed limit. Whereas in terms of Regulation 10 (A) (b)(i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB, a resident individual in accordance with these Regulations has to submit to Reserve Bank within 60 days from the date of transfer shares a report in Form FC-TRS along with documents prescribed therein.



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No.HY.FE.FID/1702/14.66.003/2016-17 dated February 21, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on February 27, 2017 during which Shri AKV Jogi Naidu, Director, VHCRC, admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the contraventions were neither willful nor with a malafide intention. In view of the foregoing, the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 8 of schedule 1 of Notification No. FEMA 20/2000-RB as the applicant had used wrong mode for payment to the share applicants by way of transfer of shares instead of issue of shares by the company. The contravention related to an amount of ₹2,90,63,320/-and period of contravention being 3 years 3 months 11 days approximately.

(b) Regulation 10(A)(b)(i) read with Paragraph 10 of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-TRS after receipt of money for transfer of shares to persons resident outside India and the contravention relates to an amount of ₹2,90,63,320/- with the period of contravention being 10 years 3 months approximately.

5. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty upto 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. 6,83,285/- (Rupees Six Lakhs Eighty Three Thousand Two Hundred Eighty Five Only) will meet the ends of justice.



6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 8 and Regulation 10 (A) (b) (i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA-20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 6,83,285/- (Rupees Six Lakhs Eighty Three Thousand Two Hundred Eighty Five Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 03<sup>rd</sup> day of March, 2017

Sd/-

(R. Subramanian)  
Regional Director