



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Fort, Mumbai - 400 001

Present

J.K.Pandey
Chief General Manager

Date: June 14, 2017
C.A. 4317/2017

In the matter of

Valuable Technologies Limited
Plot No. 53/1, Media Info Tech Park, Road No. 7
Near Akruti Trade Centre, Andheri (East), Mumbai 400 093

(Applicant)

In exercise of the powers 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 an application dated February 21, 2017 (received in the Reserve Bank on February 23, 2017) 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 relates to disinvestment in the overseas entity within a period of one year in contravention of the provisions of Regulation 16(1)(v) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004, notified vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB) read with Notification No.277/2013-RB dated May 08, 2013.



2. The relevant facts of the case are as follows: Valuable Technologies Limited (VTL) was incorporated on May 19, 2006 under the Companies Act, 1956 (CIN U72200MH2006PLC161881). The applicant is engaged in the business of information technology and software services. VTL invested in a JV in USA namely, Brunn Consulting Group Inc (hereinafter referred as JV) and under the automatic route it remitted USD 399,840 (INR 1,72,33,104) to the JV on August 14, 2008 for acquiring 1,12,000 shares which was reported to RBI on August 27, 2008. The UIN was allotted by RBI on August 27, 2008. The share certificate was received on September 10, 2008.

In the wake of global financial crisis in 2008 the applicant subsequently disinvested its entire stake in JV and the entire amount of USD 399,840 was repatriated on December 02, 2008. The applicant reported the disinvestment in Form ODI Part III on September 19, 2016. The UIN allotted to the JV was closed on February 03, 2017. RBI vide its letter FE.CO.OID.8136/19.22.260/2016-17 dated February 09, 2017 advised the applicant of the contravention of FEMA provisions. The applicant by disinvesting within a period of one year from the date of investment contravened Regulation 16(1)(v) of Notification No. FEMA 120/2004-RB.

3. Whereas in terms of Regulation 16(1)(v) of Notification No. FEMA 120/2004-RB, “an Indian Party may transfer, by way of sale to another Indian Party....or to a person resident outside India, any share or security held by it in a JV or WOS outside India subject to the condition that overseas concern has been in operation for atleast one full year”, the applicant did not fulfil the above requirement for disinvestment under the automatic route thereby contravening the said FEMA Regulation.

4. The applicant was given an opportunity for personal hearing vide our letter No. FE.CO.CEFA/11907/15.20.67/2016-17 dated May 30, 2017 for further submission in person and/or producing documents, if any, in support of the application. Shri Vishnu Kabra, Vice-President, F&A from the applicant company along with Shri Sanjay Choksi, Chartered Accountant appeared for the personal hearing on June 14, 2017. During the personal hearing, the representatives of the



applicant admitted the contraventions committed by the applicant for which they have sought compounding and requested that a lenient view may be taken 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 submissions made in this context by the applicant during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant contravened the provisions of FEMA issued in terms of Regulation 16(1)(v) of Notification No. FEMA 120/2004-RB dated July 7, 2004 read with Notification No.277/2013-RB dated May 08, 2013. The amount of contravention is USD 399,840 (INR 1,72,33,104) and the duration of contravention is approximately eight years three months.

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. However, 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 I consider that payment of an amount of Rs.1,79,248/- (Rupees One lakh seventy nine thousand two hundred and forty eight only) will meet the ends of justice in the circumstances of the case.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of Regulation 16(1)(v) of Notification No. FEMA 120/2004-RB read with Notification No.277/2013-RB dated May 08, 2013 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.1,79,248/- (Rupees One lakh seventy nine thousand two hundred and forty eight only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai – 400 001 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 fourteenth day of June, 2017

Sd/-

J.K.Pandey
Chief General Manager