



In the

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

Present

Shekhar Bhatnagar
Chief General Manager

Date: August 29, 2017
CA No 4376 / 2017

In the matter of

Deepak Chamanlal Kamani
c/o Zuri Hospitality Private Limited
244, Hoody Village
Rajapalya, ITPL Road, Whitefield Road
Opposite TATA Elxsi
Bangalore - 560048

(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 application dated February 01, 2017 (received in the Reserve Bank on May 08, 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 is delay in reporting the transfer of shares, with respect to non-repatriable shares, within the stipulated time period. The above amounted to the contravention of Section 6(3)(b), as then applicable, of Foreign Exchange



Management Act, 1999, as amended from time to time (hereinafter referred to as FEMA, 1999).

2. The relevant facts are as under: The applicant, namely, Shri Deepak Chamanlal Kamani, a non-resident promoter of the Zuri Group held repatriable as well as non-repatriable shares in Zuri group companies as follows:

Name of the company	No. of shares held on repatriable basis	No. of shares held on non-repatriable basis
Zuri Hospitality Private Limited	3677500	1722500
Laguna Kumarakom Resorts Private Limited	9891350	10931850
Bell Tower Hotels and Resorts Private Limited	19524981	100
Bell Tower Hotels (Bangalore) Private Limited	4749665	5000
Hollywood Constructions Private Limited		100
Hollywood Developers Private Limited		100
Vertex Buildcon Private Limited		100
Total	37843496	12659750

The applicant transferred the above shareholding to Charade (Mauritius) Limited, on August 19, 2009, as follows:



Name of the company	No. of shares held on non-repatriable basis	Consideration received in respect of non-repatriable shares (INR)
Zuri Hospitality Private Limited	1722500	6500800
Laguna Kumarakom Resorts Private Limited	10931850	38512720
Bell Tower Hotels and Resorts Private Limited	100	348
Bell Tower Hotels (Bangalore) Private Limited	4950	18000
Hollywood Constructions Private Limited	100	296
Hollywood Developers Private Limited	100	307
Vertex Buildcon Private Limited	100	296
Total	12659700	45032767

While the abovementioned transfer of shares was pursuant to RBI approval, however, Form FC-TRS with respect to the non-repatriable shares, was not filed. This was in contravention of Section 6(3)(b) of FEMA, 1999, as then applicable. The group companies were merged into Zuri Hospitality Private Limited, vide order of amalgamation dated March 31, 2010. RBI, vide its letter dated December 23, 2016, advised the authorized dealer to certify the Form FC-TRS, which was done on January 3, 2017, by the authorized dealer, completing the administrative action.

3. According to Section 6(3)(b), as then applicable, of FEMA, 1999, "Without prejudice to the generality of the provisions of sub-section (2), the Reserve Bank may, by regulations, prohibit, restrict or regulate the following -(b) transfer or issue of any security by a person resident outside India".



4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/121/15.20.67/2017-18 dated July 06, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on July 25, 2017 during which Shri R.Srinivasan, Zuri Group, Shri S.Baranidharan, Senior Manager, Accounts and Tax, Zuri Group, Shri Abhishek Kalra, AZB and Partners and Shri Rushabh Maniar, AZB and Partners, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Section 6(3)(b) of FEMA, 1999. The amount of contravention is INR 45032767 and the period of contravention is seven and a half 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 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 it stands to reason that payment of an amount of Rs. 3,76,667/- (Rupees three lakh seventy six thousand six hundred and sixty seven only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Section 6(3)(b) of FEMA, 1999, on payment of a sum of Rs. 3,76,667/- (Rupees three lakh seventy six thousand six hundred and sixty seven 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 accordingly.

Dated this the twenty ninth day of August, 2017

Sd/-

(Shekhar Bhatnagar)
Chief General Manager