



In the

RESERVE BANK OF INDIA

Foreign Exchange Department

Central Office Cell, 2nd floor

6, Sansad Marg

New Delhi 110 001

Present

Chief General Manager

Date: July 19, 2017

C.A. No 64/2017

In the matter of

Swiss Reinsurance Company Limited

[India Representative (Liaison) Office]

A-701, 7th Floor, One BKC, Plot No C-66, G Block, Bandra Kurla Complex, Mumbai-400 051, India.

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 the application dated March 01, 2017 (received on March 10, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act (FEMA), 1999 and the regulations issued there under.

The contraventions sought to be compounded is:

- (i) For not obtaining prior approval from Reserve Bank of India for transfer by way of sale of immovable property in India [i.e., Office Premises No.45 on 4th floor of Free Press House and two open car parking spaces Nos.11 and 41 located



within the compound of Free Press House, situate at Plot No.215, Block III of Backbay Reclamation Estate, Nariman Point, Mumbai], and terms and conditions laid out in RBI's letter dated September 19, 1997, which is in contravention of the provisions of Regulation 8 of Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000, notified vide Notification No. FEMA.21 /2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as FEMA 21 /2000-RB).

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

a) The applicant's parent company viz., Swiss Reinsurance Company Limited, Zurich was incorporated on December 19, 1863 under the law of Switzerland. The company transacts in all kinds of re-insurance business and provides associated services.

b) The applicant company was accorded permission to establish Representative (Liaison) Office in Mumbai, India by the Reserve Bank vide letter No. EC.CO.FID (I) /3175 /10.I.05.02 /4096 (Activity) /96-97 dated January 15, 1997.

c) The applicant company was also accorded approval for acquisition by way of purchase of immovable property situated at Nariman Point, Mumbai by the Reserve Bank vide letter *ibid.*, dated September 19, 1997, subject to terms and conditions mentioned therein. As per the terms and conditions, the property was prohibited to be transferred or disposed of in any manner without the Reserve Bank's prior permission. However, the applicant company disposed of by way of sale, the aforesaid property for which a sale deed was executed on December 16, 2003 for consideration amount of INR 2.25 crore (Rupees two crore twenty-five lakh only), without obtaining permission from the Reserve Bank in contravention of terms and conditions of our letter *ibid.*, dated September 19, 1997, which is construed as contravention of Regulation 8 of FEMA Notification No.21 /2000 -RB dated May 03, 2000, as amended from time to time.

d) The applicant company received sale proceeds i.e., INR 2.25 crore by way of credit to its bank account on December 19, 2003. Out of which, it transferred INR 2,05,72,000 into fixed deposit (FD) account on December 22, 2003 for a maturity period of six months. Periodically, as and when the deposits matured, the same was either liquidated or used for meeting expenses of Representative Office and



excess remaining unutilized funds were reconverted into fresh term deposits of varying maturity from 45 to 60 days which was ultimately liquidated on January 24, 2006. On account of this, the company had made undue gains of accrued interest amounting to INR 16,98,714 (Rupees sixteen lakh ninety-eight thousand seven hundred fourteen only) in addition to the principal.

e) The aforementioned contraventions were regularised by according post-facto approval by the Reserve Bank vide letter No. FE.CO.FID /954 /10.94.096 /2016-17 dated January 24, 2017, subject to compounding of contraventions.

3. FEMA provisions contravened are as under:

Regulation 8 of Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000, notified vide Notification No. FEMA 21 /2000-RB dated May 3, 2000, as amended from time to time, in terms of which no person resident outside India shall transfer any immovable property in India provided that the Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary. The terms and conditions have been mentioned in the Reserve Bank's permission letter dated September 19, 1997.

4. Opportunity of personal hearing:

The applicant was given an opportunity for personal hearing vide our email dated July 14, 2017 for further submission in person and/or producing documents, if any, in support of the application. Ms. Rubina Kesury, Vice President, along with Mr. Robert Pavrey, Consultant and Mr. Krunal Jogani, Finance representative of the company attended the personal hearing, representing the company, which was held on July 19, 2017. During the personal hearing, the representatives of the applicant admitted the contraventions committed by the applicant for which the applicant has sought compounding of contraventions. They submitted that the lapse was due to ignorance of FEMA provisions in the matter and absence of key personnel. The representatives further requested to take a lenient view. 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's representatives during the personal hearing and thereafter.



5. The undersigned has given careful consideration to the documents on record, averments made by the applicant and submissions of the company's representatives during personal hearing. Accordingly, the undersigned holds that the applicant has contravened the provisions of Regulation 8 of Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000, notified vide Notification No. FEMA 21 /2000-RB dated May 3, 2000, as amended from time to time, by receiving sale proceeds of INR. 2.25 crore on December 19, 2003 and, by making undue gains of INR 16,98,714 by way of interest accrued on fixed deposits of INR 2,05,72,000, being a significant portion of sale proceeds. I hold the period of contravention to be 13 years 1 month.

6. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to pay a penalty up to thrice the sum involved in such contravention upon adjudication. However, after considering the matter in the appropriate perspective, rationale underlying the compounding provisions, similar contraventions compounded earlier, 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 contraventions are to be compounded and I consider that payment of an amount of INR 18,97,464 (Rupees eighteen lakh ninety seven thousand four hundred sixty four only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contraventions of the terms and conditions of Reserve Bank's letter of permission dated September 19, 1997, which is construed to be the contravention of Regulation 8 of Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000, notified vide Notification No. FEMA 21 /2000-RB dated May 3, 2000, as amended from time to time, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of compounded amount of INR 18,97,464 (Rupees eighteen lakh ninety seven thousand four hundred sixty four only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Office Cell, 2th Floor, 6, Sansad Marg, New Delhi - 110 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at New Delhi 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 19th day of July, 2017

Sd/-

(J. K. Pandey)

Chief General Manager