



In the

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

Present

Kamlesh Sharma
Assistant General Manager

Date: July 28, 2017
C.A. 4306/2017

In the matter of

MNR Research Conventions Private Limited
Registered Office: 2-23B/350, Bhagyanagar Phase-III, Addagutta
Near HMT Hills Colony, Kukatpally, Hyderabad - 500 085, Telanagana

(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 13, 2017 (received in the Reserve Bank of India on February 17, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded relate to “delay in reporting of remittance made to set up the overseas entity in the prescribed form to the Reserve Bank of India (RBI)” and (ii) “delay in receipt of share certificates” with reference to the date on which the amount due was allowed to be capitalized. The contraventions related to the provisions of Regulations 6(2)(vi) and 15(i) respectively 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).



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

2.1 The applicant company was incorporated as MNR Research Conventions Private Limited (MNRRCPL) on March 26, 2015 (CIN: U74900TG2015PTC098162), having its registered office at Hyderabad, Telangana. The applicant's main objects are to run educational institutions in and outside; to provide research and consultancy in the area of education; and to establish and run centres for imparting training in various fields of education at national and international levels.

2.2 During October-November 2015, the applicant company set up an overseas wholly owned subsidiary (WOS) named MNR Teach-Trillion at the Dubai Multi Commodities Centre (DMCC), Dubai, United Arab Emirates (UAE). The WOS was registered as a 'DMCC Registered Company' (Registration Number DMCC 43532, date of registration – October 29, 2015) and was issued 'License' (number DMCC- 145479 and date of license November 5, 2015) for the activity of 'investment in educational enterprise and management', with its registered address as Unit No. : 3040, DMCC Business Centre, Level No 1, Jewellery & Gemplex 3, Dubai, UAE. As per the Memorandum of Association (MoA) and Articles of Association (AoA) - signed at the time of setting up of the WOS on October 19, 2015, the name of the applicant company (MNRRCPL) appeared as the one and only shareholder with an Initial subscription towards share capital of UAE Dirhams (AED) 50,000 (for 50 shares of AED 1000 each). Shri Narayana Raju Mantena (also referred as Shri M.N. Raju in the communication from the applicant company) had signed the MoA and AoA of the WOS on behalf of the applicant company. 2.3 Following the amendment in the MoA and AoA on November 3, 2016, the registered share capital of the WOS was increased from AED 50,000 to AED 1,106,000 by issuing 1056 (nos.) of new nominal shares of AED 1000 each - allocated to two resident individuals (RIs) - Shri Satya Ravi Varma Mantena and Shri Narayana Raju Mantena (Shri M.N. Raju – who also signed the MoA and AoA on behalf of the applicant company)- who happen to be the directors in the applicant company (MNRRCPL).



2.4 Prior to this amendment in the MoA and AoA, the two RIs had made their first remittances of USD 6,600 each, through their authorised dealer (AD) - for investment in equity share capital of the overseas WOS (MNR Teach-Trillion DMCC, Dubai) on May 4 & 5, 2016, under the Liberalised Remittance Scheme (LRS). After the online reporting of the overseas direct investment (ODI) under LRS by the AD on May 23, 2016, the overseas WOS was allotted the Unique Identification Number (UIN: HYWAZ20160603) under automatic route on May 24, 2016. The two RIs made further remittances in June 2016 to the overseas WOS for allocation of additional equity share capital. The AD reported these remittances in December 2016 after it obtained the necessary details of share certificates and capital structure of the WOS from the RIs. Share certificates were submitted by the applicant company (as well as the RIs) on November 5, 2016.

2.5 Thus the applicant company (MNRRCPL) had subscribed to the equity share capital of the same overseas entity (in October-November 2015) - for which UIN was allocated subsequently (in May 2016), without reporting the ODI transaction through the AD. The applicant had submitted the compounding application, suo motu, in February 2017 in respect of this contravention - on basis of which the applicant's name was added as Indian Party in respect of the overseas WOS (MNR Teach-Trillion DMCC, Dubai with UIN: HYWAZ20160603). There was no separate remittance sent by the applicant company as consideration for allotment of equity share capital of the overseas WOS and equity shares capital was allotted to the applicant company by way of capitalisation of the export receivables due from the overseas WOS in respect of certain services provided to it during October – November 2015. The amount of export receivables of AED 50,000/ (Invoice No. MNRRCPL/15-16/01 dated November 16, 2015) included (expenses for) professional fee towards advisory services and organising seminars during November 6-15, 2015, which was capitalised vide the Board resolution dated November 22, 2015.

3. The following are the observed contraventions:

3.1 Whereas in terms of Regulation 6(2)(vi) of FEMA 120/2004, the Indian Party making direct investment in a JV/WOS outside India has to submit



Form ODI Part I, duly completed, to the designated AD branch within the prescribed time period (30 days from the date of remittance / capitalisation of export receivables), the applicant company submitted the said Form through the designated AD only on February 6, 2017 when the date of making a financial commitment (capitalisation of export receivables) was November 22, 2015. The transaction was regularised on February 13, 2017 with the receipt of application for compounding of the contraventions. The amount involved in this transaction was AED 50,000.00 (equivalent of ₹ 8,78,000.00).

3.2 Whereas in terms of Regulation 15(i) of FEMA 120/2004 the applicant (Indian Party), which has acquired foreign security in terms of these Regulations should receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, or such further period as Reserve Bank may permit, from the date on which the amount due was allowed to be capitalised, the applicant company received share certificates on November 5, 2016 against the export receivables capitalised on November 22, 2015.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA No.112/15.20.67/2017-18 dated July 6, 2017 for further submission in person and/or producing documents, if any, in support of the application. A personal hearing held on July 21, 2017 in which the applicant company was represented by S/Shri M.N.Raju, Sirganesh, CA and Sravan Kumar. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter. The application for compounding was 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.

5. I have given my careful consideration to the documents on record and submissions made by the representatives of the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA 120/2004-RB dated July 7, 2004:



- i) Regulation 6(2)(vi) - The amount of contravention is ₹ 8,78,000.00 approximately and the period of contravention is being taken as 1 year and 3 months – from the date of capitalisation of export receivables to the date of submission of compounding application.
- ii) Regulation 15(i) - The applicant company received share certificates with a delay of 11 months 14 days.

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, 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 payment of an amount of ₹ 21,250.00 (₹ Twenty One Thousand Two Hundred Fifty only) will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions namely, the contravention of the Regulations 6(2)(vi) and 15(i) of Notification No. FEMA 120/2004-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 ₹ 21,250.00 (₹ Twenty One Thousand Two Hundred Fifty 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 twenty eighth day of July, 2017

Sd/-

(Kamlesh Sharma)
Assistant General Manager