



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, Rajaji Salai
Chennai 600 001

Present

P Ramesh
Assistant General Manager

Date: July 12, 2017

C.A. 659/2017

In the matter of

Shri Basha Syed Niamathullah

35, Ballard Street,
Jawahar Nagar,
Chennai-600 082

(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/orders made there under, I pass the following

Order

The applicant has filed a compounding application dated December 23, 2016 (received at Reserve Bank on February 16, 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 by resident to non-resident i.e. delay in submission of



FC-TRS in terms of Regulation 10 A (b) (i) of Notification No. FEMA 20/2000-RB read with AP (DIR) Series Circular No.63 dated April 22, 2009 and as amended from time to time.

2. The relevant facts of the case are as follows: The applicant, an individual by name Shri Basha Syed Niamathullah was the holder of 24800 equity shares in the company M/s.Corent Technology Pvt Ltd. (formerly M/s. ebizZones Pvt Ltd.), a private limited company incorporated under the Companies Act, 1956 on November 27, 2000 with CIN U72900TN2000PTC46195.

3. The resident seller, also a Director of the company has transferred 24800 equity shares of ₹10/- each at a premium of ₹1.47 amounting to ₹ 2,84,456/- to Non Resident buyer on 05.12.2005 out of inward remittance of ₹ 5,71,271.40 made to the company M/s Corent Technology Pvt Ltd. on 30.11.2005. The above transaction was regularized by Reserve Bank of India, Central Office subject to compounding vide letter dated May 20, 2016. The forms FC-TRS in respect of the above transfer was filed with the Authorised Dealer on 11.02.2017 as detailed below:

No of Shares	Amount Involved (INR)	Date of receipt of inward remittance	Date of filing FC TRS with AD
24800	2,84,456	30.11.2005	11.02.2017

The applicant filed the form FC TRS with the Authorised Dealer with delay of seven years seven months 20 days approximately. Whereas in terms of Regulation 10 A (b) (i) of Notification No. FEMA 20/2000-RB read with A.P (DIR Series) Circular No.63 dated April 22, 2009, the form FC-TRS should be submitted to the AD Category – I bank within 60 days from the date of receipt of the amount of consideration. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India

4. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated July 10, 2017 for further submission in person and/or producing documents, if any,



in support of the application. The applicant did not appear for the personal hearing on the due date i.e. July 12, 2017. The applicant, in the compounding application, had admitted the contravention as stated in para 3 above for which compounding has been sought. It had been submitted that the delays were unintentional. 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.

5. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Regulation 10 A (b) (i) of Notification No. FEMA 20/2000-RB read with AP (DIR) Series Circular No.63 dated April 22, 2009 due to delay in filing form FC-TRS with the Authorised Dealer. The contravention relates to an amount of ₹ 2,84,456/- and the duration of the contravention is seven years seven months 20 days approximately;

6. In terms of Section 13 of the FEMA, if any person contravenes any provision of the Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorization is issued by the Reserve Bank, he, upon adjudication, shall be liable to a penalty up to thrice the sum involved in such contravention. However, considering the circumstances which led to the delay and other relevant facts of the case, I consider that an amount of ₹ 17,670/- (Rupees seventeen thousand six hundred and seventy only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 10 A (b) (i) of Notification No. FEMA 20/2000-RB read with AP (DIR Series) Circular No.63 dated April 22, 2009, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment

of an amount of ₹ 17,670/- (Rupees seventeen thousand six hundred and seventy only) which shall be deposited by the applicant with the Reserve Bank of India,



Shri Basha Syed Niamathullah - C.A. 659/2017

Foreign Exchange Department, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 of accordingly.

Dated this Twelfth day of July, 2017.

Sd/-

P Ramesh
Assistant General Manager