



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
3rd Floor
15, Netaji Subhas Road
Kolkata – 700 001

Present

Tushar Bhattacharya
Assistant General Manager

Date: September 14, 2017
C.A. 056 / 2017

In the matter of

M/s Petunia Properties Pvt Ltd.
B103 Rai Enclave,
7/1A Sunny Park,
Kolkata – 700 019.

(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 June 13, 2017 (received at Reserve Bank on June 15, 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 filing of form FC-TRS in terms of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3rd, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant was incorporated on November 7, 2006 under the Companies Act, 1956. The main objective of the



applicant is to acquire by purchase, lease, exchange, hire or develop or operate land, buildings etc. The applicant entered in a share purchase agreement with two non-resident companies namely M/s Jarvinia (Cyprus) Limited, Cyprus and M/s Jarvinia Co Limited, Cyprus to sell 51,000 equity shares at a face value of Rs 10 per share of ten Indian companies namely Avni Livingspace Pvt Ltd, Bhoomi Architerior Pvt Ltd, Earth Real Estate Pvt Ltd, Kshetra Buildtech Pvt Ltd, MP Livingspace Pvt Ltd, Petunia Eretz Developers Pvt Ltd, Petunia Constructions Pvt Ltd, Petunia Daksha Real Estate Pvt Ltd, P&M Land Developers Pvt Ltd and Prithvi Livingspace Pvt Ltd on July 28, 2016.

The applicant has received Rs 5,10,000 in twenty tranches through Vostro account from the non-resident buyers on August 8, 2016 towards transfer of 51,000 shares of above mentioned ten companies and filed twenty form FC-TRS with AD bank on March 15, 2017 as tabulated below.

Sl. No.	Indian Company	Foreign Buyer	Date of receipt of remittance	Amount received in INR	No. of shares	Date of reporting to RBI
1	Avni Livingspace Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
2	Bhoomi Architerior Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
3	Earth Real Estate Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
4	Kshetra Buildtech Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
5	MP Livingspace Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
6	P & M Land Developers Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
7	Petunia Constructions Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
8	Petunia Daksha Real Estate Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
9	Petunia Eretz Developers Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
10	Prithvi Livingspace Pvt Ltd	Jarvinia (Cyprus) Ltd	08.08.2016	50,990	5099	15.03.2017
11	Avni Livingspace Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
12	Bhoomi Architerior Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
13	Earth Real Estate Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
14	Kshetra Buildtech Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
15	MP Livingspace Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
16	P & M Land Developers Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
17	Petunia Constructions Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017



Sl. No.	Indian Company	Foreign Buyer	Date of receipt of remittance	Amount received in INR	No. of shares	Date of reporting to RBI
18	Petunia Daksha Real Estate Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
19	Petunia Eretz Developers Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
20	Prithivi LivingSpace Pvt Ltd	Jarvinia Co Ltd, Cyprus	08.08.2016	10	1	15.03.2017
			Total	5,10,000		

Reserve Bank, Kolkata Regional Office, vide letter dated June 5, 2017 advised the AD bank to take form FC-TRS on record and AD certified the form FC-TRS on June 5, 2017. The delay in filing form FC-TRS is in contravention of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB. Whereas in terms of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I, the transferor or transferee resident has to adhere to the reporting requirements as specified by the Reserve Bank from time to time. Further, in terms of A.P.(DIR Series) Circular No. 63 dated April 22, 2009, form FC-TRS should be submitted to the AD Category-I bank, within 60 days from the date of receipt/payment of the amount of consideration.

3. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No.KOL.FED.FID.382/03.40.151/2017-18 dated August 31, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant represented by Shri Bijay Kumar De, Director and Shri Balachandar S, Chartered Accountant appeared for personal hearing on September 14, 2017. The authorized representative of the applicant admitted the contravention for which compounding has been sought and submitted that the delay was not willful or with a malafide intention.

The representative of the applicant requested that in view of the foregoing, a lenient view may be taken in disposal of the application. 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 personal hearing and thereafter.



4. I have given careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provision issued in terms of Regulation 10(A)(b)(i) read with paragraph 10 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in filing of Form FC-TRS on transfer of shares from a resident to non-resident with their designated AD bank as detailed in paragraph 2. The contravention relates to an amount of Rs.4,08,020 /- and the period of contravention is five months seven days approximately.

5. 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 an amount of **Rs 19,000/- (Rupees Nineteen Thousand only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 10(A)(b)(i) to Notification No. FEMA 20/2000-RB by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount **Rs 19,000/- (Rupees Nineteen Thousand only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Third Floor, 15 N.S. Road, Kolkata- 700 001 by a demand draft drawn in favour of "Reserve Bank of India" and payable at "Kolkata" 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 Proceeding) Rules, 2000 dated May 03, 2000 shall apply. The application is disposed of accordingly.

Dated this the fourteenth day of September, 2017.

Sd/-

(Tushar Bhattacharya)
Assistant General Manager