



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: October 12, 2017
C.A. 4367/2017

In the matter of

Rajesh Khursija
16A, Shahdana Colony, Model Town
Bareilly, Uttar Pradesh – 243 005

(Applicant)

In exercise of the powers conferred 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 April 28, 2017 (received at Reserve Bank of India on May 04, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The compounding is sought for contravention of Section 42(1) of FEMA, 1999 which stipulates that *'Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly'*. The



applicant was a Director of Alliance Promoters Limited (APL) when the company contravened the provisions contained in paragraphs 9(1)(A) and 9(1)(B) 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 3rd May 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) relating to delay in reporting foreign inward remittances and delay in reporting allotment of shares after receipt of funds.

2. The relevant facts of the case are as follows: The applicant, is a resident individual who was one of the Directors of APL which was incorporated on May 01, 2006 under the Companies Act, 1956 (CIN U45201UP2006PLC031732). It is engaged in the business of construction and development of integrated townships. APL obtained license from the Uttar Pradesh Government for the development of an Integrated Township Project in Uttar Pradesh on January 22, 2007. In this connection, APL received foreign inward remittances for issue of shares from its foreign investor, Danat Mauritius -1 Limited, Mauritius on different dates from November 2007 to February 2010. However, there was delay in reporting remittances to RBI beyond the stipulated period of 30 days:

Sr.No.	Amount (in Rs.)	Date of receipt	Date of reporting to RBI
1.	65,05,21,845.00	27.11.2007	26.12.2007
2.	21,16,94,884.00	01.10.2008	15.03.2009
3.	4,82,43,969.00	22.07.2009	25.11.2009
4.	10,46,67,108.00	05.10.2009	25.11.2009
5.	130,50,48,554.00	03.02.2010	02.03.2010
Total	232,01,76,360.00		

APL reported the receipt of foreign inward remittances at serial numbers 2, 3, and 4 above with delay ranging from less than one month to over four months approximately thereby contravening the provisions of paragraph 9(1)(A) of



Schedule 1 to Notification No. FEMA 20/2000-RB and the applicant was a Director of APL. Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report foreign inward remittances to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

3. Further, there was one instance of delay (as mentioned at serial number 2 below) in filing form FC-GPR subsequent to allotment of shares as below:

Sr. No.	Amount for which shares were issued (Rs.)	Date of Allotment	Date of filing FCGPR
1.	5,57,38,029.00	20.02.2008	14.03.2008
2.	59,47,83,816.00	21.05.2008	02.09.2008
3.	21,16,94,884.00	26.03.2009	24.04.2009
4.	15,29,11,077.00	14.01.2010	15.01.2010
5.	130,50,48,554.00	07.07.2010	04.08.2010
Total	232,01,76,360.00		

Whereas in terms of paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India. APL delayed in filing Form FC-GPR as above thereby contravening the said FEMA Regulation and the applicant was a Director of APL.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No.FE.CO.CEFA/2107/15.20.67/2017-18 dated September 07, 2017 for further submission in person and/or producing



documents, if any, in support of the application. The applicant appeared for the personal hearing on October 11, 2017 and Shri Sudhir Gupta, Chartered Accountant, VSPV & Co represented the applicant. The representatives of the applicant admitted the contraventions for which compounding has been sought and submitted that the delay was inadvertent and unintentional. They further submitted during the personal hearing that the applicant had himself come forward to admit and take responsibility for contraventions committed by Alliance Promoters Limited of which he was a Director when the contraventions took place. They requested that in view thereof, the matter may be viewed leniently. 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 along with the application.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. A compounding application was made by APL on August 11, 2014 for compounding of the contraventions stated above and in the Compounding Order CA No. MCO3475 dated February 09, 2015 it was held that APL has contravened the FEMA provisions issued in terms of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB as per the details given in paragraphs 2 and 3 above. The contraventions relate to an amount of Rs.36,46,05,961/- and Rs.59,47,83,816/- respectively. Further on the basis of the admissions made by the applicant I hold that the provisions of Section 42(1) of FEMA, 1999 quoted above are attracted.

6. The applicant is in receipt of a Show Cause Notice F.No. T-4/01-D/2014 dated May 20, 2014 from the Directorate of Enforcement (DoE). In response to RBI's letter FE.CO.CEFA./12544/15.20.67/2017-18 dated June 15, 2017, Directorate of Enforcement vide letter F.No. T-4/01-D/2014 dated August 08, 2017 conveyed its 'no objection' to the compounding proceedings in the matter. This order is issued without any prejudice to any action that may be taken by



Directorate of Enforcement against the applicant on the issues not covered under this order.

7. 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 contraventions are to be compounded and I consider that an amount of Rs.22,000/- (Rupees twenty two thousand only) will meet the ends of justice in the circumstances of the case.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1) (A) and 9(1) (B) of Schedule I to Notification No. FEMA-20/2000-RB read with Section 42(1) of FEMA, 1999 by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.22,000/- (Rupees twenty two thousand 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 of accordingly.

Dated this the twelfth day of October, 2017.

Sd/-

Shekhar Bhatnagar
Chief General Manager