



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: November 24, 2017
CA No 4537 / 2017

In the matter of

Basant Gurnani
A-1, Gulmohar Estate, Balgraha Road
Deolali Camp, Nashik - 422401

(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 October 04, 2017 (received in the Reserve Bank on October 09, 2017), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is repayment of loan availed from a non-resident Indian beyond the period of three years. The above was in contravention of Regulation 4(ii) of Foreign Exchange Management (Borrowing or Lending in Rupees) Regulations, 2000 notified vide Notification No. FEMA 4 /2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 4 /2000-RB).



2. The relevant facts are as under: The applicant is a resident individual, who had borrowed an amount of Rs. 1,77,50,000/- from an NRI, Shri Jayant Dhamanmal Gandhi, on June 11, 2011. It was an interest free loan and the loan amount was received from the Non-resident Ordinary (NRO) account of Shri Jayant Dhamanmal Gandhi. According to Regulation 4(ii) of Notification No. FEMA 4 /2000-RB, the loan was to be repaid within a period of three years. However, the loan was repaid, in tranches, as follows:

S.No.	Date of repayment	Amount repaid (INR)
1	24.08.2015	5,00,000
2	16.10.2015	7,50,000
3	04.12.2015	7,50,000
4	04.01.2016	7,00,000
5	15.01.2016	5,00,000
6	25.01.2016	5,00,000
7	13.02.2016	50,000
8	26.04.2017	40,00,000
9	26.09.2017	1,00,00,000
Total		1,77,50,000

As the loan period exceeded three years, the above was in contravention of the provisions of Regulation 4(ii) of Notification No. FEMA 4/2000-RB dated 3rd May 2000, as amended from time to time.

3. In terms of Regulation 4(ii) of Notification No.FEMA.4/2000-RB dated May 03, 2000 as amended from time to time "a person resident in India may borrow in rupees on non-repatriation basis from a non-resident Indian or a person of Indian origin resident outside India, provided the period of loan shall not exceed three years....".

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/4052/15.20.67/2016-17 dated November 07, 2017 for further submission in



person and/or producing documents, if any, in support of the application. The personal hearing was held on November 21, 2017 during which Shri Basant Gurnani, Shri Manoj Shah, Chartered Accountant and Shri Viral Satra, Chartered Accountant represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance, and therefore requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 4(ii) of Notification No. FEMA 4/2000-RB. The amount of contravention is Rs. 1,77,50,000/- and the period of contravention ranges from one year two months to three years four months approximately.

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. After considering 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 contravention is to be compounded and it stands to reason that payment of an amount of Rs. 1,59,625/- (Rupees one lakh fifty nine thousand six hundred and twenty five only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 4(ii) of Notification No. FEMA 4/2000-RB dated 3rd May 2000 (as amended from time to time), on payment of a sum of Rs. 1,59,625/- (Rupees one lakh fifty nine thousand six hundred and twenty five 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 favor 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 fourth day of November, 2017

Sd/-

(Shekhar Bhatnagar)
Chief General Manager