

FOREIGN EXCHANGE (COMPANY PROCEEDINGS) RULES, 2000

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FOREIGN EXCHANGE (COMPANY PROCEEDINGS) RULES, 2000

In exercise of the powers conferred by section 46 read with sub-section (1) of section 15 of the Foreign Exchange Management Act, 1999 (42 of 1999) the Central Government hereby makes the following rules relating to compounding contraventions under chapter IV of the said Act, namely

1. Short title and commencement :-

(1) These rules may be called the Foreign Exchange (Compounding Proceedings) Rules 2000.

(2) They shall come into force on the 1st day of June, 2000.

2. Definitions :-

In these rules, unless the context otherwise requires:-

(a) "Act" means the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) "authorised officer" means an officer authorised under subrule (1) of rule 3;

(c) "applicant" means a person who makes an application under section 15 (1) of the Act to the compounding authority;

(d) "Compounding Order" means an order issued under subsection (1) of Section 15 of the Act;

(e) "Form" means a form appended to these rules;

(f) "section" means a section of the Act;

(g) all other words and expressions used in these rules and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. . :-

(1)"CompoundingAuthority" means the persons authorised by the Central Government under sub-section (1) of section 15 of the Act namely;

(a) an officer of the Enforcement Directorate not below the rank of Deputy Director or Deputy Legal Adviser, (DLA)

(b) an officer of the Reserve Bank of India not below the rank of the Assistant General Manager.

4. Power of Reserve Bank of compound contravention :-

(1) If any person contravenes any of the provisions of section 7, or section 8 or section 9 or Third Schedule to the Foreign Exchange (Current Account Transaction) Rules, 2000 notified by GSR No..... such contraventions may be compounded:-

(a) in case where the sum involved in such contravention is five lakhs rupees or below, by the Assistant General Manager of the Reserve Bank of India;

(b) in case where the sum involved in such contravention is more than rupees five lakhs but less than rupees twenty lakhs, by the Deputy General Manager of Reserve Bank of India;

(c) in case where the sum involved in the contravention is rupees twenty lakhs or more but less than rupees fifty lakhs by the General Manager of Reserve Bank of India;

(d) in case the sum involved in such contravention is rupees fifty lakhs or more, by the Chief General Manager of the Reserve Bank of India. Provided further that no contravention shall be

compounded unless the amount involved in such contravention is quantifiable.

(2) Nothing contained in sub-section (1) shall apply to a contravention committed by any person within a period of three years from the date on which a similar contravention committed by him was compounded under these rules. Explanation:- For the purposes of this rule, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Every officer specified under sub-rule (1) of rule 4 of the Reserve Bank of India shall exercise the powers to compound any contravention subject to the direction, control and supervision of the Governor of the Reserve Bank of India.

(4) Every application for compounding any contravention under this rule shall be made in Form to the Reserve Bank of India, Exchange Control Department, Central Office, Mumbai along with a fee of Rs. 5000/- by Demand Draft in favour of compounding authority.

5. Power of Enforcement Directorate to compound contraventions :-

(1) If any person contravenes any of the provisions of sections other than section 7 or section 8 or section 9 or Third Schedule to the Foreign Exchange (Current Account Transaction) Rules, 2000 notified vide GSR No.....such contravention may be compounded:

(a) in case where the sum involved in such contravention is five lakhs rupees or below, by the Deputy Director of the Directorate of Enforcement;

(b) in case where the sum involved in such contravention is more than rupees five lakhs but less than rupees ten lakhs by the Additional Director of the Directorate of Enforcement;

(c) in case where the sum involved in the contravention is rupees ten lakhs or more but less than fifty lakhs-rupees by the Special Director of the Directorate of Enforcement;

(d) in case where the sum involved in the contravention is rupees fifty lakhs or more but less than one crore rupees by Special Director with Deputy Legal Adviser of the Directorate of Enforcement;

(e) in case the sum involved in such contravention is one crore rupees or more, by the Director of Enforcement with Special Director of the Enforcement Directorate. Provided further that no contravention shall be compounded unless the amount involved in such contravention is quantifiable.

(2) Nothing contained in sub-section (1) shall apply to a contravention committed by any person within a period of three years from the date on which a similar contravention committed by him was compounded under these rules. Explanation:- For the purposes of this rule, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Every officer of the Directorate of Enforcement specified under sub-rule (1) of this rule shall exercise the powers to compound any contravention subject to the direction, control and supervision of the Director of Enforcement.

(4) Every application for compounding any contravention under this rule shall be made in Form to the Director, Directorate of Enforcement, New Delhi, along with a fee of Rs. 5000 by DD in favour of the Compounding Authority.

6. . :-

Where any contravention is compounded before the adjudication of any contravention under section 16, no inquiry shall be held for adjudication of such contravention in relation to such contravention against the person in relation to whom the contravention is so compounded.

7. . :-

Where the compounding of any contravention is made after making of a complaint under sub-section (3) of section 16, such compounding shall be brought by the authority specified in rule 4 or rule 5 in writing, to the notice of the Adjudicating Authority and on such notice of the compounding of the contravention being given, the person in relation to whom the contravention is so compounded shall be discharged.

8. Procedure for Compounding :-

(1) The Compounding Authority may call for any information, record or any other documents relevant to the compounding

proceedings.

(2) The Compounding Authority shall pass an order of compounding after affording an opportunity of being heard to all the concerned as expeditiously as possible and not later than 180 days from the date of application.

9. Payment of amount compounded :-

Where a contravention has been compounded under rule 8(2) the sum involved in such contravention shall be deposited within fifteen days from the date of the order of compounding of such contravention by demand draft in favour of the Compounding Authority.

10. . :-

In case a person fails to pay the sum compounded in accordance with the rule 9 within the time specified in that rule, he shall be deemed to have never made an application for compounding of any contravention under these rules and the provisions of the Act for contravention shall apply to him.

11. . :-

No contravention shall be compounded if an appeal has been filed under section 17 or section 19 of the Act.

12. Contents of the order of the Compounding Authority :-

(1) Every order shall specify the provisions of the Act or of the rules, directions, requisitions or orders made thereunder in respect of which contravention has taken place alongwith details of the alleged contravention.

(2) Every such order shall be dated and signed by the Compounding Authority under his seat.

13. Copy of the order :-

One copy of the order made under rule 8(2) shall be supplied to the applicant and the Adjudicating Authority as the case may be.