



## **CASE STUDY**

# **COMPOUNDING OF CONTRAVENTION UNDER FOREIGN EXCHANGE MANAGEMENT ACT, 1999**

## **BACKGROUND OF THE CASE**

Our client, an Italian wholly owned subsidiary (“Company”) had issued in 2018 Compulsorily Convertible Debentures (CCDs) to its parent company for meeting its fund requirements. The application money received by the Company was in excess of the required funding amount. Due to change in management, the Company faced certain operational challenges & could not refund back the excess money within the prescribed time as required under Foreign Exchange Management Act (FEMA), 1999. The Company approached Octagona India for guidance & assistance in making good the contravention.

## **HOW DID OCTAGONA INDIA HELP?**

- Octagona India briefed the Company on the compounding of contravention & assisted in refunding the excess amount at the earliest to the Parent Company.
- Under this, Octagona India drafted, finalised & filed with the Reserve Bank of India (RBI) a detailed compounding application under Paragraph 2 of Schedule 1 to FEMA20(R)/2017-RB along with the relevant supporting documents such as, but not limited to, Undertaking of DOE Investigation, ECS mandate, Board Resolutions & Shareholders Resolutions.
- The application was approved by RBI without asking for any additional information & as a final step the Company was asked to appear for personal hearing. However, by then India was into nationwide lockdown due to COVID-19.
- Octagona India made representations on behalf of the Company to convince RBI officials to waive off the requirement of personal hearing & issue the final compounding order.

## **FINAL OUTCOME**

As a result of Octagona India guidance & assistance, the final compounding order was issued by the RBI without personal hearing & without asking for any additional document. We served our client throughout the process by providing timely updates about the stages of application. Finally, the contravention was successfully compounded & the matter was closed.



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