



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

R.K. Moolchandani
Chief General Manager

Date: December 30, 2019
CA No 4965 / 2019

In the matter of

Maneesh Pharmaceuticals Limited
29/33, Ancillary Industrial Plots
Govandi, Mumbai - 400043

(Applicant)

In exercise of the powers conferred under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

Order

The applicant has filed the application dated June 28, 2019 (received in the Reserve Bank on July 04, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for use of Foreign Currency Account (FCA) for receiving export proceeds, in contravention of Regulation 3 of Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations 2000 notified vide Notification No. FEMA 10/2000-RB dated May 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 10/2000-RB).



2. The relevant facts are as under:

The applicant company, (CIN U24230MH1985PLC036952), was incorporated as Maneesh Pharmaceuticals Private Limited, under the Companies Act, 1956, on July 25, 1985. It changed its name to Maneesh Pharmaceuticals Limited on March 27, 2007. The applicant company is engaged in the business of manufacturing, exporting, importing and dealing in pharmaceutical products.

The applicant company availed External Commercial Borrowing (ECB) loan in the year 2008 and opened a Foreign Currency Account (FCA) for parking the ECB proceeds in Singapore. However, the applicant company continued to maintain the account even after repayment of ECB and used the said account for receiving advances against export proceeds to the extent of USD 8208293 starting from December 2012, from one of its buyers, namely, M/s Svizera Europe B.V., Netherlands. The use of FCA for the abovementioned purposes was in violation of Regulation 3 of Notification No. FEMA 10/2000-RB. The FCA was closed vide UBS AG bank's closure letter dated February 26, 2015.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/947/15.20.67/2019-20 dated August 19, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant chose to forego the option of personal hearing with the Compounding Authority vide their letter dated August 28, 2019. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made by the applicant.

4. It has been declared in the compounding application dated June 28, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration furnished along with the compounding application that the applicant was under enquiry by the Directorate of Enforcement (DoE), in connection with the remittances received by the company and that all the details required by DoE at the time had been furnished by the applicant.



RBI, vide its letters reference No. FED.CO.CEFA/192/15.20.67/2019-20 dated 09.07.2019 and vide subsequent reminders No. FED.CO.CEFA/856/15.20.67/2019-20 and No. FED.CO.CEFA/2531/15.20.67/2019-20 dated 13.08.2019 and 18.11.2019 respectively, had sought No Objection Certificate (NOC) from DoE to proceed with the compounding process. DoE had not responded to the same.

Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant. Further, this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

5. I have given my careful consideration to the documents on record and submissions made by the applicant. It was observed that the applicant has contravened the provisions of Regulation 3 of Notification No.FEMA.10/2000-RB. The amount of contravention is Rs. 49,29,53,938/- and the period of contravention is from December 04, 2012 to February 26, 2015

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 and it stands to reason that payment of an amount of Rs. 30,07,724/- (Rupees Thirty lakhs seven thousand seven hundred and twenty four only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 3 of Notification No.FEMA.10/2000-RB, on payment of a sum of Rs. 30,07,724/- (Rupees Thirty lakhs seven thousand seven hundred and twenty four only), which shall be deposited by the applicant with "The Chief General Manager - In- Charge, 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 accordingly.

Dated this the 30th day of December, 2019

Sd/-
R. K. Moolchandani
(Chief General Manager)