



In the
Reserve Bank of India
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Smt. Rachna Dikshit
Regional Director (Punjab ,Haryana and U.T. of Chandigarh)
Chief General Manager, Chandigarh

Date: August 30, 2019
CA No. CHA 51 /2019

In the matter of

The Director
M/s Recipharm Holding India Private Limited
Rampur Ghat Road, Paonta Sahib
Himachal Pradesh-173025

(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 23.07.2019 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded pertain to (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity shares, (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India iii) delay in filing of FLA returns; in terms of Paragraph 9(1) (A), Para 9(1) (B) and Paragraph 9(2) of Schedule 1 respectively to the 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 May 3, 2000 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (iv) delay in filing of FLA returns in terms of regulation 13.1(3) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20(R)/2017-RB)



2. The relevant facts of the case are as follows:

The applicant company was incorporated on March 15, 2016 under the Companies Act 2013. The applicant is engaged in the activities of financial services.

3. The applicant received foreign inward remittance towards investment in compulsorily convertible debentures from non-residents as under:

Sr. No.	Date of Inflow	Indian Currency Amount	Date of reporting to RBI	Delay beyond 30 Days
1.	07.02.2017	1,00,000.00	08.06.2017	91 Days

The above remittance were not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittances to Reserve Bank of India with delay of **91 days**, in contravention of Para 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations should report 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.

4. Further, the applicant company issued debentures to the non-resident investor but filed the Form FC-GPR with delay as indicated below.

Sr. No.	Date of inflow	Amount ₹	Shares issued on	Share Amount ₹	Date of reporting to RBI	Delay beyond 30 Days
1	07.02.2017	891,11,00,000	16.02.2017	844,46,10,000	26.05.2017	69 Days
2	07.02.2017	1,00,000				

The applicant reported the allotment of shares to the Reserve Bank with delay of **69 days**. The delay in reporting to the Reserve Bank in Form FC-GPR, beyond the prescribed period of 30 days in respect of allotment of the above shares, is in contravention of the provisions stipulated in the Paragraph 9(1) (B) of Schedule I to FEMA Notification No.20/2000-RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank of India a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to the person resident outside India.

5. The company has delayed in filing FLA Return (Foreign liabilities and Assets) for financial year 2016 -2017 as shown below:

Sr. No.	Financial Year	Due date of filing	Date of actual filing
1	2016-17	15-07-2017	25.06.2019



The applicant has filed FLA return for financial year 2016-2017 with delay. Whereas, in terms of Para 9(2) of FEMA 20/2000-RB as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

6. The company has delayed in filing FLA Return (Foreign liabilities and Assets for financial year 2017 -2018 as shown below:

Sr. No.	Financial Year	Due date of filing	Date of actual filing
1	2017-18	15.07.2018	25.06.2019

The applicant has filed FLA return for FY 2017 -2018 with delay. Whereas, in terms of Regulation 13.1(3) of Notification No. FEMA 20R/2017-RB dated November 07, 2017 as then applicable and as amended, all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year shall submit to the Reserve Bank of India, on or before the 15th day of July of each year, [a report titled 'Annual Return on Foreign Liabilities and Assets' (FLA) as specified by the Reserve Bank from time to time.

7. The applicant was given an opportunity for personal hearing vide our letter No CHD.FECG/FID/198/03.01.473/2019-20 dated August 09, 2019 for further submission in person and/or producing documents, if any, in support of the application. However, the applicant vide its e-mail dated August 09, 2019 had informed that it was opting out of personal hearing and requested to proceed with the compounding. The application for compounding is, therefore, being considered on the basis of the averments made in the application along with the documents produced.

8. It has been declared in the compounding application dated July 23, 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 undertaking furnished with the compounding application that the applicant was not under any enquiry/investigation /adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this order are subject to the veracity of the above declarations made by the applicant and 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.



9. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- a. **Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in reporting of receipt of foreign inward remittance towards subscription of shares as detailed in paragraph 3 above. The contravention relates to an amount of ₹ **1,00,000/- with the delay of 91 days.**
- b. **Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The contravention relates to an amount of ₹ **844,46,10,000/- with the delay of 69 days.**
- c. **Paragraph 9 (2) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000** due to delay in filing of FLA returns from the Financial Year 2014-15 to 2016-17 as detailed in paragraph 5 above.
- d. **Regulation 13.1(3) of Notification No. FEMA 20(R)/ 2017- RB dated November 07, 2017** due to delay in Filing of FLA return for FY 2017-18 as detailed in paragraph 6 above.

10. 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 contravention is to be compounded and I consider that amount of penalty of ₹ **90,250.00 (Rs. Ninety Thousand Two Hundred Fifty only)** will meet the ends of justice.

11. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contravention committed by the applicant, namely contravention of Paragraph 9(1) (A), Para 9(1) (B) and Paragraph 9(2) of Schedule 1 respectively to Notification No. FEMA 20/2000-RB and Regulation 13.1(3) to Notification No. FEMA 20(R)/2017-RB on the facts discussed above, on payment of an amount of ₹ **90,250.00 (Rs. Ninety Thousand Two Hundred Fifty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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: the 30th day of August 2019.

Sd/-

Rachna Dikshit

Regional Director

Chief General Manager