



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: October 22, 2019
C.A. BGL 478/2019

In the matter of

M/s Healthifyme Wellness Private Limited
#30, 80 Feet Road
HAL 3rd Stage, Indiranagar
Bengaluru 560075

(Applicant)

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

ORDER

The applicant has filed a compounding application dated August 14, 2019, received at this office of Reserve Bank of India, Bengaluru on August 19, 2019, and addendum to the application dated October 15, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA), and the regulations issued there under. The contraventions sought to be compounded are, (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, (ii) delay in allotment of shares and delay in refund of excess share application money beyond 180 days from the date of receipt of inward remittance, (iii) delay in submission of form FC-GPR to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A), 8 and 9(1)(B), respectively, of Schedule I to 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 03, 2000, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (iv) delay in refund of excess share application money to the foreign investor/persons resident outside India, beyond 75 days from the date of receipt of the inward remittance in terms of Paragraph 2 of Schedule I to 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, M/s Healthifyme Wellness Private Limited, was originally incorporated as M/s Healthifyme Wellness Products and Services Private Limited, on June 22, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. Subsequently, the company has changed its name as M/s Healthifyme Wellness Private Limited, on March 12, 2018, as per the Certificate of Incorporation pursuant to change of name, issued by Registrar of Companies, Karnataka. The company is engaged in the business of providing health, fitness and wellness products and services through online and offline channels. The applicant had received funds towards share application money from the non-resident investor, namely, M/s Healthifyme Pte Ltd, Singapore, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	21-08-2015	37,03,024.59	16-09-2015
2	11-09-2015	26,46,777.86	19-10-2015
3	24-09-2015	39,50,388.58	19-10-2015
4	06-11-2015	9,17,910.00	05-12-2015
5	13-11-2015	26,22,400.00	05-12-2015
6	30-11-2015	39,72,600.00	05-12-2015
7	11-12-2015	9,32,120.00	15-12-2017



8	23-12-2015	6,59,150.00	15-12-2017
9	07-01-2016	9,99,930.00	15-12-2017
10	30-03-2016	1,03,822.53	13-04-2017
11	30-03-2016	1,60,919.22	13-04-2017
12	11-04-2016	3,31,33,674.60	01-11-2016
13	05-05-2016	2,99,43,997.20	31-05-2016
14	08-06-2016	1,99,18,813.86	15-06-2016
15	05-07-2016	13,44,00,000.00	02-08-2016
16	29-09-2016	7,97,52,000.00	24-10-2016
17	27-04-2017	6,38,85,000.00	09-05-2017
18	07-09-2017	89,25,910.00	07-10-2017
19	28-09-2017	5,22,68,000.00	07-10-2017
	Total	44,28,96,438.44	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from eight days to one year eleven months and five days, beyond the stipulated period of 30 days in respect of the remittances as indicated at serial numbers 2 and 7 to 12, in the Table-1 above. Whereas, in terms of Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures 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.

3. The company had delayed in allotting the shares and delayed in refunding the excess share application money to the non-resident investor beyond 180 days from the date of receipt of inward remittance, in the below mentioned instances:

i) The company had received inward remittances amounting to ₹2,04,04,301.03 in nine tranches during the period August 21, 2015 to January 07, 2016, from the non-resident investor, M/s Healthifyme Pte Ltd, Singapore, and the company had allotted 19810 equity shares worth ₹2,04,04,300.00, on February 19, 2016.



However, for the first tranche of remittance of ₹37,03,024.59, received on August 21, 2015, the shares were allotted with a delay, beyond 180 days from the date of receipt of inward remittance, without prior approval of the Reserve Bank. The amount of contravention is **₹37,03,024.59**, and the period of delay is two days;

ii) The company had received inward remittances amounting to ₹2,64,741.75, in two tranches, on March 30, 2016, from the non-resident investor M/s Healthifyme Pte Ltd, Singapore, towards issue of shares. However, the company had refunded the entire share application money to the investor, on March 12, 2018, with a delay, beyond 180 days from the date of receipt of inward remittance, with prior approval of the Reserve Bank. The amount of contravention is **₹2,64,741.75**, and the period of delay is one year five months and fourteen days;

iii) The company has received excess share application money amounting to ₹14,575.51, which was received, from the non-resident investor M/s Healthifyme Pte Ltd, Singapore, in tranches, during the period April 2016 to September 2017, and refunded the same to the investor on October 15, 2019, with a delay, beyond 180 days from the date of receipt of inward remittance, with prior approval of the Reserve Bank. The amount of contravention is **₹14,575.51**, and the period of delay ranges from three years and seven days to one year six months and eighteen days.

Whereas, in terms of Paragraph 8 of Schedule 1 to Notification no. FEMA 20/2000- RB, dated May 3, 2000 and as amended from time to time, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt.



The total amount of contravention in the aforesaid instances is **₹39,82,341.85**, and the period of delay ranges from two days to three years and seven days.

4. Further, the company had allotted equity shares to the non-resident investor, in terms of Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2017-RB, dated November 07, 2017. However, in the instance mentioned here below, the company had refunded the excess share application money, beyond 75 days from the date of inward remittance to the non-resident investor :

The company had received an inward remittance of ₹5,21,60,000.00, on November 14, 2017, and ₹3,18,85,000.00, on December 16, 2017, amounting to ₹8,40,45,000.00, from the non-resident investor M/s Healthifyme Pte Ltd, Singapore and the company had allotted 16940 equity shares worth ₹8,40,44,930.20, on January 03, 2018, to the investor, leaving behind an excess of ₹69.80. The excess share application money was refunded to the non-resident investor on October 15, 2019, with a delay beyond the stipulated period of 75 days from the date of receipt of inward remittance. The amount of contravention is ₹69.80, and the delay is one year seven months and fourteen days.

Whereas, in terms of Paragraph 2 of Schedule 1 to Notification No. FEMA 20 (R)/2017- RB, dated November 07, 2017, if the capital instruments are not issued within sixty days from the date of receipt of the consideration, the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR(B) accounts, as the case may be, within fifteen days from the date of completion of sixty days.

5. The applicant company had allotted equity shares and filed form FC-GPRs with Reserve Bank/AD as indicated below:



Table – 3

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	19-02-2016	19810	2,04,04,300.00	20-03-2016
2	01-07-2016	6619	2,99,43,892.67	02-09-2016
3	04-08-2016	4402	1,99,14,339.86	02-09-2016
4	24-08-2016	29708	13,43,96,912.44	28-03-2019
5	01-10-2016	7324	3,31,33,263.32	07-12-2016
6	23-11-2016	17628	7,97,47,838.04	04-04-2019
7	08-05-2017	12878	6,38,82,735.58	26-05-2017
8	04-11-2017	12336	6,11,93,838.24	11-04-2019
	Total	110705	44,26,17,120.15	

The applicant filed the form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from one month two days to two years six months and five days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated at serial numbers 2, 4, 5, 6 and 8 in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to the 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 person/s resident outside India.

6. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.1003/22.10.032/2019-20, dated October 16, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Pawan Agrawal, Finance Controller, Mr. Sourav Maskara, Manager and Ms. Alka Shinde, Consultant, who appeared for the personal hearing on October 22, 2019, admitted the contraventions as stated in paragraphs 2, 3, 4 and 5 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or



with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, the authorized representatives requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

7. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹3,86,36,394.21**, and the period of delay ranges from eight days to one year eleven months and five days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to delay in allotment of shares/refund of excess share application money, beyond 180 days from the date of receipt of inward remittances, as detailed in paragraph 3 above. The total amount of contravention is **₹39,82,341.85**, and the period of delay ranges from two days to three years and seven days;

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to person/s resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **₹33,84,15,744.71**, and the period of delay ranges from one month and two days to two years six months and five days; and

(d) Paragraph 2 of Schedule 1 to Notification No. FEMA 20(R)/2000-RB, as the applicant refunded the excess share application money to the non-resident investor with a delay beyond the stipulated period of 75 days from the date of receipt of amount of consideration, as detailed in paragraph 5



above. The contravention relates to an amount of **₹69.80**, and the period of delay is one year seven months and fourteen days.

8. It has been declared in the compounding application dated August 14, 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 dated October 10, 2019, furnished as part of 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 is 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. 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 contraventions are to be compounded, and I consider that an amount of **₹5,60,914.00, (Rupees Five Lakh Sixty Thousand and Nine Hundred and Fourteen only)**, will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB and Paragraph 2 of Schedule I to Notification No. FEMA 20(R)/2017-RB by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹5,60,914.00, (Rupees Five Lakh Sixty Thousand and Nine**



Hundred and Fourteen only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India”, payable at Bengaluru, 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 this, the Twenty Second day of October 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru