



**Reserve Bank of India  
Foreign Exchange Department  
Mumbai Regional Office  
Main Building, 3rd floor  
Shahid Bhagat Singh Marg, Fort  
Mumbai 400 001**

**CA No. MUM 937/2019**

In the matter of  
**M/s Athena Drug Delivery Solutions Private Limited**  
620, 6th Floor, Star Hub, Tower II, Near ITC Maratha,  
International Airport Road, Sahar, Andheri (E),  
Mumbai 400099  
**(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 thereunder, I pass the following

**Order**

- 1 The applicant has filed the compounding application dated July 24, 2019, received at the Reserve Bank on July 31, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention/s sought to be compounded are in respect of the following Regulations/ paras under Schedule 1 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 3, 2000 as amended from time to time (hereinafter referred to as FEMA 20) and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2017, notified vide Notification No FEMA 20R/2017 RB dated November 07, 2017, as amended from time to time (hereinafter referred to as FEMA 20R):
  - (i) Para 9 (1) (B) of FEMA 20: Delay in filing Form FC GPR to Reserve Bank after issue of shares to person resident outside India
  - (ii) Regulation 16.B of FEMA 20R: failure to obtain specific and prior Government approval for issue of shares to person resident outside India in certain prescribed cases.



2 Brief details of the applicant company are as follows:

<b>Date of Incorporation</b>	November 16, 1995
<b>Its main activities are:</b>	Manufacture of allopathic pharmaceutical preparations

3 The company allotted equity shares/compulsorily convertible preference shares/compulsorily convertible debentures and filed FC-GPRs as indicated below:

<b>Delay in filing Form FCGPR</b>						
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, LSF stands for : Late Submission Fees, IP stands for Issue Price and FV stands for Face Value allotments made in the FERA period have not been included in the Compounding Order</u>						
Sr. no/ LSF	Date of allotment (DD-MM-YY)	Number of shares	IP (FV+ premium) (in INR)	Amount (IP*no of shares) (in INR)	Date of reporting (DD-MM-YY)	Delay in filing FCGPR
1	01-01-05	4387608	10.00	4,38,76,080.00	21-06-05	0Y 4M 20D
2	30-12-17	3775500	10.00	3,77,55,000.00	12-01-18	0
<b>TOTAL</b>				<b>8,16,31,080.00</b>		

The applicant filed form FC-GPRs as indicated above, out of which 1 form FCGPR was reported with a delay of 0Y 4M 20D. Whereas, in terms of Para 9(1) (B) of FEMA 20, an Indian company issuing shares in accordance with these Regulations has to submit to RBI a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to Non Resident.

4 The applicant company issued shares to Non-Resident Investor/s towards Foreign Direct Investment without obtaining prior approval of the Government of India. The company obtained post facto approval as indicated below:

<b>Delay in obtaining approval from Government/RBI (as applicable)</b>					
<u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days)</u>					
S No	Date of inward allotment (DD-MM-YY)	Amount	Date of Approval	Delay in taking approval	Delay in days
1	30-12-2017	3,77,55,000.00	08-05-2019	1Y 4M 8D	493
<b>Total</b>		<b>3,77,55,000.00</b>			

The applicant received post facto approval on date/s indicated in the table above with a delay of 1Y 4M 8D from the date of issue of shares. Whereas in terms of Regulation 16.B of FEMA 20R, the applicant company was required to obtain approval from the Government, before issuing shares to Non- Resident investor.



- 5 The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated November 14, 2019. The applicant appeared for personal hearing on November 19, 2019, during which Mr. Rajesh VA, Representative of the company, Mr. Naren Madlani, Consultant and Ms Sumitha C, Consultant represented the applicant in the office of the Compounding Authority. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing by the Compounding Authority the representative of the applicant submitted that the delay was inadvertent and unintentional. They requested that in view of the foregoing a lenient view may be taken 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.
- 6 I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:
- (i) Para 9 (1) (B) of FEMA 20, due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to total amount of Rs.4,38,76,080 (Rupees Four Crore Thirty Eight Lakh Seventy Six Thousand Eighty and Zero Paise Only) with a delay of 0Y 4M 20D approximately.
  - (ii) Regulation 16.B of FEMA 20R, for issuing shares to Non Resident Investor without obtaining necessary approval from the Government. The contravention relates to a total amount of Rs.3,77,55,000 (Rupees Three Crore Seventy Seven Lakh Fifty Five Thousand and Zero Paise Only) with a delay of 1Y 4M 8D approximately.
- 7 It has been declared in the compounding application dated July 24, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to 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/him/her 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.



- 8 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 Rs.2,88,486 (Rupees Two Lakh Eighty Eight Thousand Four Hundred Eighty Six and Zero Paise Only) will meet the ends of justice.
- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (B) of FEMA 20 and Regulation 16.B of FEMA 20R, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 2,88,486 (Rupees Two Lakh Eighty Eight Thousand Four Hundred Eighty Six and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.
- 10 The above order is passed only in respect of contraventions of Para 9 (1) (B) of FEMA 20 and Regulation 16.B of FEMA 20R and does not restrict the rights of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.
- 11 The application is disposed of accordingly.

sd/-

**(Aviral Jain)**

**Chief General Manager and  
Compounding Authority**

Dated :November 29, 2019