



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, NCOB  
Shahid Bhagat Singh Marg  
Mumbai - 400 001

Present

**Ajay Kumar Misra**  
**Chief General Manager**

Date: October 17, 2019  
CA No 4915/ 2019

In the matter of

**Amneal Pharmaceuticals Pvt. Ltd.**  
**901-911, Iscon Elegance, Near Hotel Crowne Plaza**  
**SG Highway, Ahmedabad 380015**

**(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 March 25, 2019 (received in the Reserve Bank on April 22, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are: (i) foreign investment in brownfield pharmaceutical sector without prior government approval and (ii) transfer of shares from one non-resident company to another non-resident company - in a sector



under government approval route, without the approval of the erstwhile Foreign Investment Promotion Board (FIPB). The above were in contravention of:

- (i) Paragraph 25.2 of Annexure B to Schedule I -read with Regulation 5(1) of FEMA 20/2000 – RB dated May 3, 2000 (from 19.10.12 to 13.11.14) and Paragraph 17.2 of Annexure B to Schedule -read with Regulation 5(1) of FEMA 20/2000 – RB dated May 3, 2000 (from 14.11.2014 to 06.11.2017) and Regulation 16(B) (Sl. No.16.2) of FEMA 20(R)/2017 dated November 7, 2017 (from 07.11.2017 to 16.01.2018) and
- (ii) Regulation 3 of FEMA 20/2000 – RB dated May 3, 2000.

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

The applicant company was incorporated as Amneal Pharmaceuticals Private Limited (CIN: U24231GJ2006PTC048109) on April 07, 2006. Amneal Life Sciences Private Limited (ALS) another Indian company belonging to Amneal group, merged with the applicant company w.e.f. April 1, 2014. The Applicant Company and ALS received foreign investments from Amneal Pharmaceuticals LLC, USA (Amneal US), Amneal Pharma Investment Holding (APIH), Mauritius, and Amneal Singapore Pvt. Ltd. (ASPL), during the period from 2006 to 2014. The amounts received under the abovementioned foreign investment by these two entities were utilized to acquire entire share capital of another Indian company viz. Amneal Oncology Private limited (formerly known as Epsilon Pharmaceuticals Private limited – incorporated under the Companies Act 1956 on 10/11/1998).

Pursuant to Notification No. FEMA 242/2012 – RB dated October 19, 2012, brownfield foreign investment in pharmaceutical sector (investment in existing Indian pharmaceutical companies) was brought under the government approval route with effect from October 19, 2012. However, since the applicant company did not obtain such approval, it was in contravention of Paragraph 25.2 (renumbered as 17.2) of Annexure B to Schedule I of FEMA 20 read with Regulation 16 (B) (Sl.No. 16.2) of FEMA 20(R).



Further, the shares of the Applicant Company and ALS were transferred from two foreign entities namely APIH and Amneal US to ASPL in October 2013 and March 2014 respectively. Such transfer of shares, from non-resident companies to another non-resident company, without FIPB approval, of a company engaged in a sector requiring government approval is in contravention of Regulation 3 of Notification No 20/2000-RB dated May 3, 2000.

With the post-facto approval by Department of Pharmaceuticals (vide letter dated January 16, 2018), the 'administrative action' for the aforesaid two contraventions was considered as complete.

3. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/1285 /15.20.67/2019-20 dated September 06, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on October 01, 2019 during which the applicant submitted that the company had inadvertently failed to comply with the applicable FEMA regulations due to ignorance, and requested that a lenient view may be taken in the matter.

4. It has been declared in the compounding application dated March 25, 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 also been declared in the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. 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.



The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the meeting with the Compounding Authority.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of (i) Paragraph 25.2 of Annexure B to Schedule I -read with Regulation 5(1) of FEMA 20 (from 19.10.12 to 13.11.14) and Paragraph 17.2 of Annexure B to Schedule -read with Regulation 5(1) of FEMA 20 (from 14.11.2014 to 06.11.2017) and Regulation 16(B) (Sl. No.16.2) of FEMA 20(R)/2017 dated November 7, 2017 (from 07.11.2017 to 16.01.2018) and (ii) Regulation 3 of FEMA 20/2000 – RB dated May 3, 2000.

The amount of contravention is Rs. 442,01,37,015/- and the period of contravention is approximately four years and eleven months.

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. Therefore, after considering the submissions made by the applicant with regard to the contraventions and the entire facts and circumstances of the case, it stands to reason that payment of an amount of Rs.3,10,40,959/- (Rupees three crore ten lakhs forty thousand nine hundred and fifty nine only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Paragraph 25.2 of Annexure B to Schedule I -read with Regulation 5(1) of FEMA 20 (from 19.10.12 to 13.11.14) and Paragraph 17.2 of Annexure B to Schedule -read with Regulation 5(1) of FEMA 20 (from 14.11.2014 to 06.11.2017) and Regulation 16(B) (Sl. No.16.2) of FEMA 20(R)/2017 dated November 7, 2017 (from 07.11.2017 to 16.01.2018)



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and Regulation 3 of FEMA 20/2000 – RB dated May 3, 2000, as amended from time to time, on payment of a sum of Rs.3,10,40,959/- (Rupees three crore ten lakhs forty thousand nine hundred and fifty nine only) which shall be deposited by the applicant with Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favor 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 17<sup>th</sup> day of October, 2019

**Sd/-**

**(Ajay Kumar Misra)**

**Chief General Manager**