



In the

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

Present

**Shri K S Praveen**  
**Assistant General Manager**

Date: February 22, 2019  
**C.A. BGL 341/2018**

In the matter of

**M/s Cannula Plus India Private Limited**  
Plot No. 375-A, 4<sup>th</sup> floor, 10<sup>th</sup> Cross Road  
4<sup>th</sup> Phase Peenya Industrial Area  
Bengaluru - 560058  
**(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 November 10, 2018, received at this office of Reserve Bank of India, Bengaluru on November 15, 2018, and addendum to the application dated February 11, 2019, received on February 12, 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 refund of excess share application money beyond 180 days from the date of receipt of inward remittance, and (iii) delay in submission of Form FC-GPRs 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).

2. The relevant facts of the case are as follows: M/s Cannula Plus India Private Limited, was incorporated on May 06, 2009, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the company is to carry on the business of manufacture, import, export and deal in cannula and all types of surgical instruments, apparatus, equipments and materials. The applicant had received funds towards share application money from the non-resident investors, namely, M/s Adroit USA INC, USA, and Mr. Christ Kitazawa, USA, as shown below:

**Table – 1**

<b>Sl. No</b>	<b>Date of Receipt</b>	<b>Amount (INR)</b>	<b>Date of Reporting to RBI /AD</b>
1	06-07-2009	3,18,195.42	25-06-2018
2	18-08-2009	25,495.75	25-06-2018
	<b>Total</b>	<b>3,43,691.17</b>	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from eight years nine months and eight days to eight years ten months and twenty days, beyond the stipulated period of 30 days in respect of remittances as indicated in 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 allotted equity shares to the non-resident investors, in terms of Paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. However, in the instances mentioned here below, the company had refunded excess share application money beyond 180 days from the date of



receipt of inward remittances, with the prior approval of the Reserve Bank of India.

(i) The company had received an inward remittance of ₹ 3,18,195.42, on July 06, 2009, from the non-resident remitter, M/s Adroit USA INC, USA, and allotted 30,000 equity shares worth ₹ 3,00,000.00, to the non-resident investor M/s RatanKumar Kishnidas Bajaj, USA. The excess share application money of ₹ 18,195.42, was refunded with a delay beyond the stipulated period, on February 11, 2019, to the non-resident remitter. The amount of contravention is ₹ 18,195.42, and the period of delay is nine years one month and nine days; and

(ii) The company had received an inward remittances of ₹ 25,495.75, on August 18, 2009, from the non-resident investor, Mr. Christ Kitazawa, USA, and allotted 2,500 equity shares worth ₹ 25,000.00. The excess share application money of ₹ 495.75, was refunded with a delay beyond the stipulated period, on February 11, 2019, to the non-resident investor. The amount of contravention is ₹ 495.75, and the period of delay is eight years eleven months and twenty eight days.

The company was given approval to refund the total excess share application money of ₹ 18,691.17, to the non-resident investors, vide Reserve Bank's letter FE.BG.FID.No.2678/21.11.242/2018-19 dated February 04, 2019. 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, read with AP (Dir Series) Circular No. 20 dated December 14, 2007, 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.



4. The applicant company had allotted equity shares and filed Form FC-GPR with Reserve Bank/AD as indicated below:

**Table – 2**

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD
1	07-09-2009	32500	3,25,000.00	13-01-2010
	<b>Total</b>		<b>3,25,000.00</b>	

The applicant filed the Form FC-GPR on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay of three months and six days, beyond the prescribed period of 30 days in respect of allotment of shares as indicated 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.

5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 2923/22.11.242/2018-19 dated February 14, 2019, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives Mr. Rohit Seshadri, Director, and Mr. Prathap Kumar S Pande, Practicing Company Secretary, who appeared for the personal hearing on February 20, 2019, admitted the contraventions as stated in paragraphs 2, 3 and 4 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, they 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.



6. 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 ₹ 3,43,691.17, and the period of delay ranges eight years nine months and eight days to eight years ten months and twenty days;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to refund of excess share application money beyond 180 days from the date of receipt of inward remittances, with prior approval from Reserve Bank of India as detailed in paragraph 3 above. The total amount of contravention is ₹ 18,691.17, and the period of delay ranges from eight years eleven months and twenty eight days to nine years one month and nine days; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPR 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 ₹ 3,25,000.00, and the period of delay is three months and six days.

7. It has been declared in the compounding application dated November 10, 2018, 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 November 06, 2018, 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.

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 **₹ 55,111.00, (Rupees Fifty Five Thousand One Hundred and Eleven only)**, will meet the ends of justice.

9. 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 by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹ 55,111.00, (Rupees Fifty Five Thousand One Hundred and Eleven only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and 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 February, 2019.

Sd/-

**(K S Praveen)**  
**Assistant General Manager**