



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

Suman Ray
Chief General Manager

Date: September 23, 2019
C.A.907/2019

In the matter of

M/s. Ordain Healthcare Global Pvt Ltd.
No.532, Uthiramerur Road, Melavalampettai
Opp. to Sun Pharmaceuticals, Karunguzhi village
Madurantakam - 603 303

(Applicant)

In exercise of the powers 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 May 02, 2019 (received at Reserve Bank on May 07, 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 of inflow of funds to Reserve Bank received from a person resident outside India (ii) delay in submission of Form FC-GPR to Reserve Bank on allotment of shares in terms of Paragraph 9(1)A and Paragraph 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 3, 2000 as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB) and (iii) delay in allotment of capital instruments in terms of Paragraph 2(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 company was incorporated on July 07, 2011 under the provisions of the Companies Act, 1956 (Registration No. U24296TN2011PTC081413) and is engaged in business of manufacture of medicinal substances used in the manufacture of pharmaceuticals: antibiotics, endocrine products, basic vitamins; opium derivatives; sulpha drugs; serums and plasmas; salicylic acid, its salts and esters; glycosides and vegetable alkaloids; chemically pure suger etc. The applicant received foreign inward remittances from (i) M/s. Insud Pharma S.L (formerly known as Chemo Espana S L), Spain and (ii) Ladeepharma Gyogyszerkereskedelmi KFT, Hungary towards subscription to capital instruments and reported to Reserve Bank as detailed in the table below.

SI. No.	Amount of Inward Remittance (₹)	Date of receipt	Reported to RBI on
1	50,51,04,440.4	10.10.2012	08.11.2012
2	9,37,53,612.72	11.10.2012	08.11.2012
3	51,06,612.72	12.10.2012	08.11.2012
4	31,12,12,254.08	06.11.2012	04.12.2012
5	2,70,56,373.96	28.03.2013	14.06.2013
6	1,40,70,000.00	05.06.2013	05.07.2013
7	1,41,78,982.74	06.06.2013	05.07.2013
8	2,98,35,000.00	26.06.2013	05.07.2013
9	2,93,50,000.00	25.07.2013	21.08.2013
10	1,56,25,000.00	24.09.2013	22.10.2013
11	4,59,07,500.00	04.10.2013	22.10.2013
12	3,08,45,000.00	05.11.2013	28.11.2013
13	3,07,65,000.00	06.12.2013	26.12.2013
14	3,10,05,000.00	09.01.2014	28.01.2014



15	3,08,90,000.00	26.02.2014	05.03.2014
16	3,00,40,000.00	16.04.2014	13.05.2014
17	2,36,12,000.00	02.06.2014	02.07.2014
18	3,01,10,000.00	04.09.2014	01.10.2014
19	6,12,70,000.00	07.10.2014	05.11.2014
20	2,48,16,000.00	20.02.2015	04.03.2015
21	12,41,200.00	05.03.2015	09.03.2015
22	9,58,50,000.00	08.06.2015	03.07.2015
23	28,93,80,000.00	23.07.2015	07.08.2015
24	3,87,55,885.10	13.05.2016	15.06.2016
25	19,15,77,000.00	23.06.2016	29.06.2016
26	74,14,50,101.70	20.07.2016	29.07.2016
27	5,17,44,000.00	25.07.2016	01.08.2016
28	3,33,34,000.00	10.08.2016	26.08.2016
29	10,94,89,155.72	03.10.2016	14.10.2016
30	2,89,89,000.00	26.05.2017	14.06.2017
31	1,24,82,437.29	27.06.2017	06.07.2017
32	4,82,38,411.03	17.07.2017	21.07.2017
33	3,84,06,686.34	31.07.2017	21.08.2017
34	2,62,60,000.00	27.09.2017	20.10.2017
35	1,35,23,900.00	27.09.2017	20.10.2017

The applicant reported two remittances to the Reserve Bank with delay ranging from three days to one month 18 days approximately beyond the stipulated time of 30 days in respect of remittances at Sl.No.5 and 24. 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 applicant company allotted capital instruments and filed FC-GPRs as indicated below:

Sl. No	No. of shares allotted	Share Value (₹)	Amount (₹)	Date of allotment of shares	Reported to RBI on
1	10307	48991.16	50,49,51,886.12	12.10.2012	12.10.2012
2	101	48991.16	49,48,107.16	12.10.2012	08.11.2012
3	404965	1000	40,49,65,000.00	04.04.2013	09.04.2013
4	114490	1000	11,44,90,000.00	20.09.2013	24.09.2013



5	185037	1000	18,50,37,000.00	14.03.2014	19.03.2014
6	53652	1000	5,36,52,000.00	09.10.2014	10.11.2014
7	106971	1000	10,69,71,000.00	28.02.2015	20.03.2015
8	1241	1000	12,41,000.00	12.03.2015	13.04.2015
9	385230	1000	38,52,30,000.00	01.12.2015	21.12.2015
10	230332	1000	23,03,32,000.00	25.07.2016	27.07.2016
11	826528	1000	82,65,28,000.00	05.10.2016	04.11.2016
12	109489	1000	10,94,89,000.00	30.12.2016	28.01.2017
13	722	40108	2,89,57,976.00	15.06.2017	01.03.2018
14	311	40108	1,24,73,588.00	25.07.2017	07.03.2018
15	1203	40108	4,82,49,924.00	21.08.2017	06.03.2018
16	958	40108	3,84,23,464.00	25.09.2017	07.03.2018

The applicant filed the Form FC-GPRs with delay ranging from two days to seven months 14 days approximately beyond the stipulated time of 30 days in respect of allotments at Sl.Nos.6,8 and 13 to 16. Whereas in terms of paragraph 9(1)B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing capital instruments in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of capital instruments to person resident outside India.

4. The company has utilized ₹19,111.46 the excess of remittance received on 10.08.2018 for allotment of 1116 capital instruments on 08.02.2019 as detailed below:

Sl. No.	Date of receipt	Amount in contravention (₹)	Date of allotment of capital instrument
1	10.08.2018	19,111.46	08.02.2019

The company allotted capital instruments with a delay of three months 30 days approximately beyond the stipulated time of 60 days. Whereas in terms of paragraph 2(2) of Schedule I to Notification No. FEMA 20(R)/2017-RB, the capital instruments have to be issued within sixty days from the date of receipt of the consideration.

5. The applicant was advised about the contraventions vide memorandum dated April 15, 2019. The applicant has filed compounding application dated May 02, 2019 wherein it has been declared 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 declaration 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/him/her 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.

6. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated September 18, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing scheduled on September 20, 2019 during which Shri Praveen Kumar Rathi, auditor, represented the applicant. The authorized representative of the applicant admitted to the contraventions as stated in paragraphs 2 to 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take a lenient view in the matter. 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 the personal hearing.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and 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 receipt of inward remittance towards subscription of capital instrument as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 6,58,12,259.06 with duration of contravention ranging from three days to one month 18 days approximately;



- (b) 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 capital instruments to persons resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of ₹18,29,97,952.00 with the duration of contravention ranging from two days to seven months 14 days approximately; and
- (c) Paragraph 2(2) of Schedule I to Notification No. FEMA 20R/2017-RB due to delay in allotment of shares, as detailed in paragraph 4 above. The contravention relates to an amount of ₹19,111.46 with the duration of contravention being three months 30 days approximately.

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 **₹1,45,831/-** (Rupees one lakh forty five thousand eight hundred and thirty one only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, and paragraph 2(2) of Schedule I to Notification No. FEMA 20(R)/2017-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 **₹1,45,831/-** (Rupees one lakh forty five thousand eight hundred and thirty one only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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.



M/s. Ordain Healthcare Global Pvt Ltd.–C.A.907/2019

The application is disposed accordingly.

Dated this twenty-third day of September, 2019.

Sd/-

Suman Ray

Chief General Manager