



In the

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

Present

Ms. Usha Nambeesan
Assistant General Manager

Date: October 25, 2019
C.A. BGL 457/2019

In the matter of

M/s Jiva Sciences Private Limited
#34, 2nd Floor, E Block Extension
Sahakaranagara, Bytarayanapura
Bengaluru 560064
(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 July 25, 2019, received at this office of Reserve Bank of India, Bengaluru, on July 31, 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, and (ii) 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) 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, 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: The applicant, M/s Jiva Sciences Private Limited, was incorporated on July 01, 2015, under the Companies Act, 2013, as per the Certificate of Incorporation issued by the Assistant Registrar of Companies, Karnataka. The company is engaged in the business of providing solutions in the field of bovine sperm sorting and research process outsourcing in the area of bio-engineering. The applicant had received funds towards share application money from the non-resident investor, namely, Mr. Simon Geoffrey Best, Scotland, as shown below:

Table - 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	07-12-2015	5,00,000.00	23-12-2016
2	21-03-2017	5,00,000.00	ARF not reported
	Total	10,00,000.00	

The company had not reported the inward remittance mentioned at serial number 02, in the Table – 1 above, to AD/RBI. Since, reporting in form ARF was discontinued with effect from September 01, 2018, (date on which Single Master Form (SMF) reporting in FIRMS portal was implemented) the delay/contravention period for non-reporting of the said inward remittance has been considered till August 31, 2018.

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from eleven months and seventeen days to one year four months and eleven days, beyond the stipulated period of 30 days in respect of remittances as indicated, 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 allotted shares and filed form FC-GPR with Reserve Bank/AD Bank as indicated below:

Table-2

Sl. No.	Date of Allotment	Number of equity shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	13-01-2016	50000	5,00,000.00	13-07-2018
2	31-03-2017	3569	4,99,660.00	18-06-2019
	Total	53569	9,99,660.00	

The applicant had filed form FC-GPR on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from two years one month and nineteen days to two years five months and one day, beyond the prescribed period of 30 days. 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 persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 1058/22.11.652/2019-20, dated October 22, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Sarvesh Maiya U, Chartered Accountant, and Mr. Ramanjaneyulu Kota, Manager – Finance & Accounts, who appeared for the personal hearing on October 25, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. The representatives of the applicant requested that, as the contraventions were not intentional or with a malafide intention and was mainly due to inadvertence, 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.



5. 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 **₹10,00,000.00**, and the period of delay ranges from eleven months and seventeen days to one year four months and eleven days days; and

(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 shares to person/s resident outside India, as detailed in paragraph 3 above. The contravention relates to an amount of **₹9,99,660.00**, and the period of delay ranges from two years one month and nineteen days to two years five months and one day.

6. It has been declared in the compounding application dated July 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 been declared in the undertaking, 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.



7. 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 **₹27,090.00 (Rupees Twenty Seven Thousand and Ninety only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contravention of Paragraphs 9(1)(A) and 9(1)(B), of Schedule I to Notification No. FEMA 20/2000-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 **₹27,090.00 (Rupees Twenty Seven Thousand and Ninety 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 Fifth day of October 2019.

Sd/-

(Usha Nambeesan)
Assistant General Manager