



In the

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

Present

N Mohana
General Manager

Date: June 6, 2019
C.A.876/2019

In the matter of

M/s. Trimed Solutions India Private Ltd.
No. 1-1/25-A-1, K.R.N Nagar
Ganapathypalayam, Mohan Nagar (P.O.)
Salem – 636 030

(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 December 29, 2018 (received at Reserve Bank on January 18, 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 to Reserve Bank the inflow of funds received from a person resident outside India for allotment of shares in terms of Paragraph 9(1)A of Schedule I



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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). (ii) delay in refund of receipt of consideration in terms of Paragraph 2(3) 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 7, 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 October 29, 2012 under the provisions of the Companies Act, 1956 (Registration No. U74999TZ2012PTC018888) and is engaged in the business of wholesale of scientific, medical and surgical machinery and equipment. The applicant received foreign inward remittance from M/s. Magna Meditech SDN BHD, Malaysia towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance (₹)	Date of receipt	Reported to RBI on
1	43,00,000.00	24.01.2017	24.04.2017

The applicant reported the receipt of above remittance to the Reserve Bank on date indicated above with a delay of two months one day approximately beyond the stipulated time of 30 days. 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 received one more foreign inward remittance from M/s. Magna Meditech SDN BHD, Malaysia towards subscription to equity shares but did not allot shares and refunded the remittance as indicated below:



Sl. No	Amount of Foreign Inward Remittance (₹)	Date of receipt	Date of refund
1	46,49,020.34	24.01.2018	28.01.2019

The company refunded the receipt of consideration with a delay of nine months 19 days approximately beyond the stipulated time. Whereas in terms of paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB, if capital instruments are not issued within sixty days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance within fifteen days from the date of completion of sixty days.

4. The applicant was advised about the contraventions vide memorandum dated December 17, 2018. The applicant has filed a compounding application dated December 29, 2018 wherein it has been declared in the compounding application 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 undated 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. However, the company had reported remittance towards FDI but had neither filed Form FCGPR for the allotment of shares against the inward remittance nor furnished satisfactory evidence for the refund of the amount and hence was referred to Directorate of Enforcement (DoE) vide letter dated March 22, 2019. Accordingly, Reserve Bank vide letter Che.FED.FID/3125/25.27.999/2018-19 dated April 12, 2019 had sought comments from DoE to be furnished within 30 days as to whether it had objection, if any, in terms of the proviso to Rule 8(2) to Compounding Rules to compounding the contraventions sought to be compounded by the applicant. A reminder dated May 13, 2019 was issued to DoE in this regard giving them 7 days to respond. DoE has not furnished any response whatsoever. Accordingly, the above contraventions which are being compounded in this Order is without prejudice to any other action which may be taken by any authority under the extant laws.



5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated May 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on May 30, 2019 during which Shri Kumar Reddy A, Practising Company Secretary, represented the applicant. The authorized representative of the applicant admitted to the contraventions as stated in paragraphs 2 and 3 above 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 Reserve Bank 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.

6. 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 remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹43,00,000.00 with duration of contravention being two months one day approximately;

(b) Paragraph 2(3) of Schedule I to Notification No. FEMA 20(R)/2017-RB due to delay in refund of receipt of consideration. The contravention relates to an amount of ₹46,49,020.34 with the duration of contravention being nine months 19 days approximately.

7. In terms of Section 13 of the FEMA, 1999, 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



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on the amount for which the contraventions are to be compounded and I consider that an amount of **₹84,995/-** (Rupees eighty four thousand nine hundred and ninety five only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contravention of paragraph 9(1)A of Schedule I to Notification No. FEMA 20/2000-RB and Paragraph 2(3) 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 **₹84,995/-** (Rupees eighty four thousand nine hundred and ninety five 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.

The application is disposed accordingly.

Dated this sixth day of June, 2019.

Sd/-
N Mohana
General Manager