



**In the
Reserve Bank of India
Foreign Exchange Department
7th Floor, Gera's Imperium-II,
EDC Complex, Patto Plaza,
Panaji, Goa - 403 001**

Present

**Shri. Richard Gomes
Assistant General Manager**

Date: December 26, 2019

CA No: PAN25

In the matter of

**M/s Samdhana Vihar Health Private Limited
296, Colomb, Patnem, Canacona,
South Goa, Goa-403702
(Applicant)**

In exercise of the powers conferred 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 October 16, 2019 (received on November 08, 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) delay in reporting of foreign inward remittance for issue of equity shares, beyond the stipulated time period, (ii) delay in reporting of form FC-GPR after the issue of shares, beyond the stipulated time period and (iii) delay in receipt of inward



remittance against shares issued towards subscription to Memorandum of Association (MoA), beyond the stipulated time period, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 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:

i) The applicant is a company registered as a private limited company, incorporated on May 27, 2013 under the Companies Act, 1956 (CIN:U85190GA2013PTC007239) with the main object of undertaking the business of healthcare treatments (NIC code: 86909).

ii) The applicant had received foreign inward remittance towards issue of equity shares as detailed below:

Name of the Remitter	Amount (Rs.)	Date of Receipt	Reported to RBI on
Mr. Graham Morland Smith	9,21,400/-	07-Aug-2013	11-Dec-2013

The applicant reported receipt of abovementioned remittance to the Foreign Exchange Department, Panaji Regional Office of the Reserve Bank on the date indicated above with delay of 3 months 4 days, beyond the stipulated period 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.



iii) The applicant allotted equity shares and filed FC-GPRs as indicated below:

Sr. No.	Name of Investor	No. of Shares	Amount (Rs.)	Date of Allotment	Reported to RBI on
1	Mr. Graham Morland Smith	49,990	4,99,900/-	27-May-2013	13-Aug-2019
2		42,150	4,21,500/-	27-Aug-2013	
-	Total	92,140	9,21,400/-	-	-

The applicant filed Form FC-GPR in respect of shares allotted with delays ranging from 5 years 10 months 17 days to 6 years 1 month 17 days on two occasions, beyond the stipulated period of 30 days. Whereas in terms of paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.

iv) The applicant had received inward remittance with delay beyond stipulated period after issue of shares towards subscription to MOA to a person resident outside India as detailed below –

No. of Shares	Amount (Rs.)	Date of Credit	Date of Allotment
49,990	4,99,900/-	07-Aug-2013	27-May-2013

The applicant had received inward remittance against the issue of shares towards subscription to MOA with delay of 12 days. This is contravention in terms



of paragraph 8 of Schedule-I to Notification No. FEMA 20/2000-RB, dated May 03, 2000.

3. The applicant was given an opportunity for personal hearing vide Reserve Bank's letter no. PNJ.FED: 318 / 02.09.026 / 2019-20 dated November 19, 2019 for further submission in person and / or producing documents, if any, in support of the application. The company Director Shri Ute Ferrao has informed vide email dated November 19, 2019 that they did not wish to attend the personal hearing. It has been declared in the compounding application dated October 16, 2019 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief and also that the applicant was not under any enquiry / investigation / adjudication by any agency such as Enforcement Directorate, CBI, etc. as on the date of the application. The applicant has also given an undertaking to inform RBI of initiation of any 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 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.

4. I have given my careful consideration to the documents on record and in the compounding application. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of:

i) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to the delay in reporting of receipt of foreign inward remittance towards subscription



to equity. The contravention relates to an amount of **Rs. 9,21,400/-** and the duration of delay is 3 months 4 days.

ii) 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 the person resident outside India. The contravention relates to an amount of **Rs.9,21,400/-** and the duration of contravention ranges from 5 years 10 months 17 days to 6 years 1 month 17 days.

iii) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in receipt of inward remittance against allotment of shares towards subscription to MoA with delay of 12 days. The contravention relates to an amount of **Rs.4,99,900/-**.

5. 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 **Rs.63,920/- (Rupees Sixty Three Thousand Nine Hundred Twenty only)** will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 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 **Rs.63,920/- (Rupees Sixty Three Thousand Nine Hundred Twenty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Gera Imperium II, 7th Floor, EDC Complex, Patto Plaza, Panaji, Goa 403 001 by a demand draft drawn in favour 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



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abovementioned 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 Sixth day of December 2019.

Sd/-

(Shri. Richard Gomes)
Assistant General Manager