



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present

Jayant Kumar Dash
Chief General Manager (The Regional Director)

March 28, 2018
CEFA.CO.ID.9546 / C.A.No. AHM - 93 / 2017-18

Matter

M/s Novagen Healthcare Pvt. Ltd.
(CIN: U74120GJ2014PTC078747)
B -203, Gopal Palace, Near Nehrunagar Circle, Ambawadi, Ahmedabad - 380015
ગુજરાત / Gujarat

(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:

Order

The applicant has filed compounding application dated December 28, 2017 (received at Reserve Bank of India on January 8, 2018) 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days 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 1 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 3rd May 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: The applicant company was incorporated on February 14, 2014 under the provisions of the Companies Act, 2013 (CIN: U74120GJ2014PTC078747). The company is engaged in manufacture of Pharmaceuticals, medical and other products. The applicant company has received total seven inflows amounting to ₹5,82,55,429/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected: (Table -1)

Sr. No.	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	Shri Vasant Salain	15/12/2014	61154	05/01/2015	No delay
2	I.E, Medica Inc	03/01/2017	4609188	27/01/2017	No delay
3	Stratgen Healthcare Pte Ltd.	11/01/2017	10104641	04/02/2017	No delay
4	Madhu Narain Balkrishna Pillai	16/01/2017	10000000	14/02/2017	No delay
	Sub Total A		24774983		
5	Madhu Narain Balkrishna Pillai	07/01/2016	15000000	06/12/2017	669 days
6	Stratgen Healthcare Pte Ltd.	10/05/2016	13197690	20/06/2016	11 days
7	I.E, Medica Inc	22/08/2016	5282756	20/05/2017	241 days
	Sub Total B		33480446		
	Grand Total (A+B)		58255429		

* The date for calculation of delay under 9(1) (A) taken as date of inflow reporting by Company to AD.



4. The applicant reported the receipt of seven inward remittances, amounting to ₹5,82,55,429/- to the Ahmedabad Regional Office of the Reserve Bank of India. Out of seven inflows three inflows amounting to ₹3,34,80,446/- were reported with a delay ranging from 11 to 669 days. Whereas, in terms of paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. The applicant allotted equity shares and filed FC-GPRs as stated below:

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)

क्र. सं. Sr. No.	विदेशी निवेशक का नाम Name of the Foreign Investor	जारी किए शेर / सीसीडीएस की संख्या No of shares issued	शेयर / सीसीडीएस की राशि Amount of shares (₹)	शेयर / सीसीडीएस जारी करने की तिथि Date of issue of shares	आरबीआई को एफसीजीपीआर प्रस्तुत करने की तिथि * Date of submission of FC-GPR to RBI *	30 दिन से अधिक के विलंब की संख्या (दिनों में) Days delay excluding prescribed time of 30 days
1	Shri Vasant Salain	611	61100	31/03/2015	28/04/2015	No delay
2	I.E, Medica Inc	45635	4609135	27/02/2017	28/03/2017	No delay
3	Stratgen Healthcare Pte Ltd.	100045	10104545	27/02/2017	28/03/2017	No delay
4	Madhu Narain B. Pillai	99009	9999909	27/02/2017	28/03/2017	No delay
	Sub Total A	245300	24774689			
5	Madhu Narain B.Pillai	150000	15000000	15/01/2016	12/07/2017	514 days
6	Stratgen Healthcare Pte Ltd.	131977	13197700	30/05/2016	21/10/2016	114 days
7	I.E, Medica Inc	52828	5282800	26/08/2016	23/06/2017	271 days
	Sub Total B	334805	33480500			
	Total	580105	58255189**			



* For calculation of days of delay under 9(1)(B) date of reporting to AD bank is taken as reporting to RBI.

** Excess amount of ₹240/- has been ignored.

6. As indicated in the table above, the applicant has filed seven form FC-GPRs amounting to ₹5,82,55,189/-. Out of seven FC-GPRs forms three form FC-GPRs amounting to ₹3,34,80,500/- were filed with a delay ranging from 114 to 514 days beyond the prescribed timeline of 30 days. Whereas, in terms of paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, 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 the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1218 /06.04.15 (C) CEFA /2017-18 dated March 9, 2018 for further submission in person and /or producing documents, if any, in support of the application. Shri Manoj Vora, Director and Shri Mayur Nayak, Chartered Accountant represented the applicant for the personal hearing on March 28, 2018. They admitted to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

8. The representative of the applicant requested that in view of the foregoing, 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.



9. It has been declared in the compounding application dated December 28, 2017 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. 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.

10. I have given my careful consideration to the documents on record and submission made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

A) Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards subscription of shares as detailed in paragraph 4 above. The amount of contravention involved is ₹3,34,80,446/- and the delay is for approximately 11 to 669 days.

B) Paragraph 9 (1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares / CCDs to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹3,34,80,500/- and the delay is for approximately 114 to 514 days .



11. 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 therefore, I consider that amount of penalty of ₹2,12,940/- (Rupees Two lakh twelve thousand nine hundred forty only) will meet the ends of justice.

12. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹2,12,940/- (Rupees Two lakh twelve thousand nine hundred forty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 28th day of March, 2018.

Sd/-

(Jayant Kumar Dash)

Chief General Manager (Regional Director)