



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri J. K. Pandey
Chief General Manager

Date: April 13, 2018

C.A. No. 745/2018

In the matter of

MJ Biotech Private Limited
Plot No. 18
International Biotech Park
Hinjewadi Phase II
Pune- 411057

(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 thereunder, I pass the following

Order

1. The applicant has filed the compounding application dated February 20, 2018 (received at the Reserve Bank on February 22, 2018) 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) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of the inward remittance (ii) delay in reporting receipt of foreign inward remittance towards subscription to equity & (iii) 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 8, 9(1)(A) & 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 May 3, 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 June 27, 2002 under the Companies Act, 1956 as Shreya Biotech Private Limited. The name of company was changed to Scigen Biopharma Private Limited on October 5, 2007, thereafter the name was changed to MJ Biotech Private Limited on August 12, 2016. Its main activities are 1. To manufacture, export, import, sell, buy, deal, distribute in health care products, marketing and distribution of pharmaceutical products, enzymes, pharmaceutical formulations in the forms of injections, tablets, capsules, dosage delivery systems, syrups, powders, pills, ointments, suppositories, ophthalmic liquid oral preparations, drugs, hygienic products, health care food products, crude drugs bulk drugs, intermediates and all kinds and types of health care products, pharmaceuticals, biotech, ayurvedic, herbal, homeopathic products and related and associated business including R & D activities. 2. To carry on the business of manufacturing, trading, importing and exporting of medicines, drugs, medical preparations and proprietary, articles whether basic or desired in all forms and other pharmaceutical and fine chemical products, toiletries, chemical and pharmaceutical and manufacture of bulk drugs, pharmaceutical, other chemicals relating pharmaceutical drugs, organic as well as inorganic, biotech and biotech chemicals, chemical preparations of spirituous and non-spirituous, veterinary products, cosmetic products and sanitary napkins, chemist, druggist, pharmaceuticals, importers, processors, buyers, sellers, retailers and manufacturing or marketing products related to for others.

3. The applicant received foreign inward remittance and reported the same to the Reserve Bank as indicated below.



Sr. No.	Amount in INR	Date of receipt	Date of reporting
1	4,59,29,709	02/06/2006	13/08/2012
2	68,86,331	14/06/2006	13/08/2012
3	4,61,50,000	23/06/2006	13/08/2012
4	1,92,28,775	12/07/2006	13/08/2012
5	6,98,017	19/07/2006	13/08/2012
6	92,85,628	28/07/2006	13/08/2012
7	1,38,02,632	05/09/2006	13/08/2012
8	25,22,85,000	27/09/2006	13/08/2012
9	44,74,642	06/11/2006	13/08/2012
10	5,13,44,904	10/11/2006	13/08/2012
11	4,56,80,435	14/11/2006	13/08/2012
12	55,37,146	09/01/2007	13/08/2012
13	6,20,89,645	06/03/2007	13/08/2012
14	1,63,81,174	04/05/2007	13/08/2012
15	50,87,174	09/05/2007	13/08/2012
16	1,73,55,075	23/05/2007	13/08/2012
17	1,74,72,067	07/06/2007	13/08/2012
18	1,61,32,105	28/06/2007	13/08/2012
19	50,00,000	23/08/2007	13/08/2012
20	1,67,49,773	23/08/2007	13/08/2012
21	1,67,49,774	07/09/2007	13/08/2012
22	1,67,49,774	01/10/2007	13/08/2012
23	1,67,49,772	26/10/2007	13/08/2012
24	1,67,49,773	25/01/2008	13/08/2012
25	1,44,97,000	25/01/2008	13/08/2012
26	38,70,000	26/02/2008	13/08/2012
27	1,47,00,000	07/04/2008	13/08/2012
28	93,50,000	17/04/2008	13/08/2012
29	4,96,59,272	05/06/2008	13/08/2012
30	2,73,40,728	05/06/2008	13/08/2012
31	1,65,50,000	18/06/2008	23/08/2012
32	84,91,660	26/06/2008	23/08/2012
33	85,83,657	02/07/2008	23/08/2012
34	63,79,160	14/07/2008	23/08/2012
35	2,12,97,216	15/07/2008	23/08/2012
36	43,83,649	02/09/2008	23/08/2012
37	44,60,000	29/09/2008	23/08/2012
38	58,00,000	16/10/2008	23/08/2012
39	57,78,000	26/11/2008	23/08/2012
40	19,09,349	30/12/2008	11/10/2013
41	16,79,060	07/01/2009	23/08/2012



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42	73,22,609	21/01/2009	23/08/2012
43	10,34,214	25/02/2009	23/08/2012
44	28,72,397	27/02/2009	23/08/2012
45	15,40,243	05/03/2009	23/08/2012
46	4,94,700	05/03/2009	23/08/2012
47	25,77,242	13/03/2009	23/08/2012
48	20,28,546	30/03/2009	23/08/2012
49	24,99,750	29/04/2009	23/08/2012
50	34,44,306	07/05/2009	23/08/2012
51	14,14,864	22/05/2009	15/12/2009
52	47,37,621	27/05/2009	15/12/2009
53	47,08,624	10/06/2009	15/12/2009
54	14,63,756	09/07/2009	15/12/2009
55	38,56,000	23/07/2009	15/12/2009
56	47,84,617	25/09/2009	15/12/2009
57	46,72,626	30/10/2009	15/12/2009
58	92,19,631	25/11/2009	03/02/2010
59	1,28,03,628	24/12/2009	28/01/2010
60	1,90,06,597	10/02/2010	18/02/2010
61	23,08,269	28/05/2010	07/08/2010
62	27,78,829	11/06/2010	07/08/2010
63	92,27,630	28/07/2010	07/08/2010
64	37,14,029	27/08/2010	28/09/2010
65	40,63,138	22/09/2010	14/10/2010
66	45,05,640	18/11/2010	12/01/2011
67	3,36,59,641	23/12/2010	25/01/2011
68	1,58,06,000	19/01/2011	15/02/2011
69	3,10,51,845	12/05/2011	19/07/2011
70	1,89,33,396	14/09/2011	22/09/2011
71	98,49,290	14/11/2011	02/12/2011
72	4,09,90,309	21/11/2011	29/11/2011
73	1,04,05,137	23/12/2011	02/01/2012
74	4,84,98,642	21/02/2012	15/03/2012
75	4,74,98,600	15/03/2012	24/03/2012
Total	1,30,30,70,442		

The applicant reported remittances amounting to Rs.1,07,87,91,703/- (Rupees One Hundred and Seven Crore Eighty Seven Lakh Ninety One Thousand Seven Hundred Three only) with a delay ranging from 2 days to 6 years 1 month 12 days approximately, in respect of remittance recorded at serial no. 1 to 59, 61, 62, 64, 66, 67 and 69 above, beyond the stipulated time of 30 days. Whereas, in terms of



Paragraph 9(1)(A) of Schedule 1 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.

4. The company allotted equity shares/preference shares/convertible preference shares and filed FC-GPRs as indicated below:

Sr. No	No of Shares	Face Value in INR	Premium in INR	Amount in INR	Date of allotment	Date of Reporting
1	233073	10	100	25,638,030	12/11/2009	11/12/2009
2	372998	10	100	41,029,780	20/04/2010	28/05/2010
3	1983938	10	57.44	133,796,779	16/05/2012	06/03/2013
4	5385129	10	150	861,620,640	18/05/2012	23/12/2013
5	24089172	10	0	240,891,720	19/03/2012	05/03/2013
Total	32064310			1,30,29,76,949		

The applicant filed form FC-GPRs amounting to Rs.1,27,73,38,918/- (Rupees One Hundred Twenty Seven Crore Seventy Three Lakh Thirty Eight Thousand Nine Hundred Eighteen Only) with a delay ranging from 8 days to 1 year 6 months 5 days approximately, beyond the prescribed limit in respect of allotment indicated at Sr. No. 2 to 5 above. 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 Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

5. In respect of remittances amounting to Rs.1,06,02,27,104/- (Rupees One Hundred and Six Crore Two Lakh Twenty Seven thousand One Hundred Four only), at serial no 1 to 50 and 61 to 69 above in para 3 above, the company allotted shares after 180 days of receipt of investment with a delay ranging from 4 months 9 days to 3 years 11 months 22 days approximately. Whereas in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of



consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of security by A person resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Government of India.

6. The applicant was given an opportunity for personal hearing vide e-mail dated April 4, 2018, for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on April 6, 2018, during which Shri Dhaval Vashi, Representative on behalf of Director of MJ Biotech Pvt. Ltd. and Shri Binoy Parikh, Advisor, represented the applicant in the cabin of Shri J. K. Pandey, Chief General Manager, Mumbai Regional Office. The representatives of the applicant admitted the contraventions for which compounding has been sought. During the hearing it was submitted that delay was inadvertent and unintentional. The representatives 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.

7. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(a) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB since the shares were not issued to the person resident outside India within 180 days from the date of receipt of the inward remittance/share application not refunded to the person resident outside India within 180 days from the date of receipt of the inward remittance. The contravention relates to an amount of Rs.1,06,02,27,104/- (Rupees



One Hundred and Six Crore Two Lakh Twenty Seven thousand One Hundred Four only) and the duration ranging from 4 months 9 days to 3 years 11 months 22 days approximately.

(b) Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed in paragraph 3 above. The contravention relates to an amount of Rs.1,07,87,91,703/- (Rupees One Hundred and Seven Crore Eighty Seven Lakh Ninety One Thousand Seven Hundred Three only) and with a delay ranging from 2 days to 6 years 1 month 12 days approximately.

(c) Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB due to the delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of Rs.1,27,73,38,918/- (Rupees One Hundred Twenty Seven Crore Seventy Three Lakh Thirty Eight Thousand Nine Hundred Eighteen Only) with a delay ranging from 8 days to 1 year 6 months 5 days approximately.

8. It has been declared in the compounding application dated February 20, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated nil 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.

9. 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.1,29,62,533/- (Rupees One Crore Twenty Nine Lakh Sixty Two Thousand Five Hundred Thirty Three Only) will meet the ends of justice.

10. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 8, 9(1)(A) and 9(1)(B) of Schedule 1 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.1,29,62,533/- (Rupees One Crore Twenty Nine Lakh Sixty Two Thousand Five Hundred Thirty Three Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 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 above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

11. The above order is passed only in respect of contraventions of paragraph 8, 9(1) (A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: April 13, 2018.

Compounding Authority

Sd/-

(J. K. Pandey)
Chief General Manager