



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Shekhar Bhatnagar**  
**Chief General Manager**

Date: June 28, 2018  
CA No. 4621/2018

In the matter of

**Strides Shasun Limited**  
**201, 'Devavrata', Sector 17, Vashi, Navi Mumbai – 400073**

**(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 December 22, 2017 (received in the Reserve Bank of India on January 18, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded relate to issuance of Employee Stock Options (ESOPs) to the person resident outside India in the brownfield pharmaceutical company without obtaining necessary prior approval at a time when the foreign investment in brownfield pharmaceutical sector was under the approval route in contravention of para 25.2 of the erstwhile Annex B to schedule 1 read with para 3 of schedule 1 of 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, as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB) and the extant FDI Policy.

2. The relevant facts of the case are as follows: The applicant company was incorporated as Strides Pharmaceuticals Private Limited on June 28, 1990 (CIN:



L24230MH1990PLC057062) under the Companies Act, 1956. Its name was subsequently changed to Strides Pharmaceuticals Limited on May 23, 1994, then to Strides Arcolab Limited on March 21, 1997 and finally to Strides Shasun Limited (SSL) on November 18, 2015, post amalgamation with Shasun Pharmaceuticals Limited vide the order of the Hon'ble High Court of Madras and the Hon'ble High Court of Bombay. The applicant is engaged in the pharmaceutical industry, as manufacturer, producer, processor and formulator of proprietary medicine, drugs etc.

The applicant issued 50,000 Employee Stock Options (ESOPs) exercisable/ convertible into 50,000 equity shares, to Mr. Mohan Ram Prasad, an employee resident outside India on February 07, 2014, at an exercise price of Rs.322.30/- per share. Mr. Prasad exercised 10,000 options on March 04, 2015 at the exercise price for a total amount of Rs.1,61,15,000/- and 10,000 shares were allotted on May 22, 2015. In response to the SSL's application dated January 12, 2017 Department of Pharmaceuticals, Ministry of Chemicals & Fertilizers (pursuant to abolishment of FIPB) vide its approval letter No. 13012/5/2017-FDI Policy dated November 16, 2017 granted its approval, advising the applicant to approach the Reserve Bank of India for compounding the contravention committed by issuing the abovementioned ESOPs, as brownfield investment in pharmaceutical sector was under the approval route at the time of the issuance of ESOPs, thus requiring prior FIPB approval. In terms of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixth Amendment) Regulations, 2012 notified vide Notification No.FEMA.242/2012-RB dated October 19, 2012 foreign investment in brownfield pharmaceutical sector was brought under approval route and thus, at the time of issuance of ESOPs foreign investment in brownfield pharmaceutical sector was under the approval route. The above issuance of ESOPs without prior approval from erstwhile FIPB was thus in contravention of para 25.2 of erstwhile Annex B to schedule 1 read with para 3 of schedule I to FEMA 20/2000-RB.

3. In terms of para 3 of schedule 1 to FEMA 20/2000-RB '*An Indian company intending to issue shares to a person resident outside India in accordance with these Regulations .....shall obtain prior approval of the Foreign Investment Promotion Board (FIPB) of Government of India, if the Indian company .....proposes to issue shares to a person resident outside India beyond sectoral limits or the activity of the Indian company falls under the FIPB route, as stipulated in Annex B to this Schedule.*' Further, in terms of



para 25.2 of erstwhile Annex B to schedule 1 of FEMA 20/2000-RB, foreign investment in brownfield pharmaceutical sector was under the approval route.

Whereas the applicant, engaged in the brownfield pharmaceutical company sector, issued Employee Stock Options (ESOPs) to a person resident outside India without obtaining necessary prior approval thereby contravening the said FEMA provisions.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA/8810/15.20.67/2017-18 dated April 26, 2018 for further submission in person and/or producing documents, if any, in support of the application. Shri Dev Raj Singh along with Shri Girish Suvarna from Ernst & Young represented the applicant during the personal hearing held on May 08, 2018. The representatives of the applicant admitted the contraventions for which compounding had been sought. They submitted that the contravention was inadvertent and unintentional. They requested that a lenient view may be taken 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.

5. The applicant has declared in the compounding application that Directorate of Enforcement (DoE) vide its letter No.T-3/285-MBZO-I/2017/AD/AS/413 dated September 26, 2017 has asked the applicant to furnish certain information, records and documents regarding the export/import transactions. RBI vide letter FE.CO.CEFA./6309/15.20.67/2017-18 dated January 24, 2018 and reminder FE.CO.CEFA./8364/15.20.67/2017-18 dated April 11, 2018 had sought comments from DoE as to whether its investigation pertained to the contraventions sought to be compounded by the applicant and whether it had any objection to compounding by RBI. DoE vide its letter F.No.RBI/SDE/WR/B-183/2018/1073 dated June 25, 2018 has stated that its investigation did not pertain to the contraventions sought to be compounded by the applicant. 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.

6. I have given my careful consideration to the documents on record and the submissions made by the applicant thereafter during the personal hearing. I hold that the applicant has contravened the provisions of FEMA, 1999 issued in terms of para 25.2 of erstwhile Annex B to schedule 1 read with para 3 of schedule I of Notification No. FEMA



20/2000-RB, as then applicable. The total amount of contravention was Rs.1,61,15,000/- approximately while the period of contravention was three years nine months approximately.

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 Rs.1,54,748/- (Rupees one lakh fifty four thousand seven hundred and forty eight only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of para 25.2 of erstwhile Annex B to schedule 1 read with para 3 of Schedule I of Notification No. FEMA 20/2000-RB, as then applicable, by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.1,54,748/- (Rupees one lakh fifty four thousand seven hundred and forty eight only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> Floor, Amar Building, 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.

The application is disposed of accordingly.

Dated this the twenty eighth day of June, 2018

Sd/-

**(Shekhar Bhatnagar)**  
**Chief General Manager**