



In the

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

Present

Dr. K Balu
Chief General Manager

Date : June 01, 2018
C.A.772/2018

In the matter of

M/s. Jatropower Bio-Trading Pvt Ltd.,
No.18/73, Bharathi Park, 7th Cross Road,
Saibaba Colony,
Coimbatore-641011

(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 March 07, 2018 (received at Reserve Bank on March 14, 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 in reporting of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares to



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Reserve Bank and (iii) delay in allotment of shares in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 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 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 March 25, 2008 under the provisions of the Companies Act, 1956 (Registration No. U51200TZ2008PTC021813) and is engaged in business of research and experimental development on natural sciences and engineering. The applicant received foreign inward remittances from i) Mr. Peter Gmuer, Switzerland ii) M/s Jatropower AG, Switzerland 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	19,61,823.00	01.04.2008	24.10.2013
2	7,95,280.00	26.06.2008	24.10.2013
3	10,00,000.00	22.08.2008	24.10.2013
4	45,00,000.00	16.10.2008	22.09.2016
5	20,00,000.00	17.02.2009	24.10.2013
6	10,00,000.00	30.10.2009	03.09.2016
7	10,22,841.00	27.04.2010	03.09.2016
8	24,99,300.00	13.08.2010	03.09.2016
9	54,84,000.00	18.11.2010	22.09.2016
10	29,57,507.00	18.04.2011	22.09.2016
11	22,56,236.00	28.10.2011	22.09.2016
12	25,29,365.00	10.08.2012	22.09.2016
13	42,09,000.00	13.03.2013	22.09.2016
14	20,72,624.00	07.03.2014	22.09.2016
15	59,72,256.00	31.07.2014	28.08.2014

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from two years five months 15 days to seven years 10 months six days approximately beyond the stipulated time of 30 days in respect of the



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remittances at Sl. Nos. 1 to 14. 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 allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment of shares	Reported to RBI on
1	9900	10	99,000.00	15.04.2008	03.09.2016
2	40000	10	4,00,000.00	31.03.2009	24.10.2013
3	950000	10	95,00,000.00	31.03.2011	17.06.2014
4	597225	10	59,72,250.00	15.12.2014	20.02.2015
5	2428898	10	2,42,88,980.00	10.04.2018	30.04.2018

The applicant filed the form FC-GPRs as indicated above with delay ranging from one month five days to eight years three months 18 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 1 to 4. 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 FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company allotted shares on 31.03.2009 and 31.03.2011 against remittances as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	01.04.2008	4,00,000.00	31.03.2009
2	01.04.2008	14,62,823.00	31.03.2011
3	26.06.2008	7,95,280.00	31.03.2011
4	22.08.2008	10,00,000.00	31.03.2011
5	17.02.2009	20,00,000.00	31.03.2011
6	30.10.2009	10,00,000.00	31.03.2011
7	27.04.2010	10,22,841.00	31.03.2011
8	13.08.2010	22,19,056.00	31.03.2011



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The company allotted shares with delay ranging from one month 18 days to two years six months approximately without prior approval of Reserve Bank.

4a. Further, the company allotted shares on 10.04.2018 against remittances as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	16.10.2008	45,00,000.00	10.04.2018
2	13.08.2010	2,80,244.00	10.04.2018
3	18.11.2010	54,84,000.00	10.04.2018
4	18.04.2011	29,57,507.00	10.04.2018
5	28.10.2011	22,56,236.00	10.04.2018
6	10.08.2012	25,29,365.00	10.04.2018
7	13.03.2013	42,09,000.00	10.04.2018
8	07.03.2014	20,72,624.00	10.04.2018

The company allotted shares with delay ranging from three years seven months three days to eight years 11 months 24 days approximately with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated January 23, 2018. The applicant has filed a compounding application dated March 07, 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 declaration dated March 07, 2018 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. 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



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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.

6. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated May 28, 2018 for further submission in person and/or producing additional documents, if any, in support of the application. The applicant appeared for the personal hearing on May 31, 2018 during which Shri G Vasudevan, Company Secretary in Practice represented the applicant. The authorized representative of the applicant admitted the contravention as stated in para 2 to 4 above committed by the applicant 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.

7. 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 1 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 ₹ 3,42,87,976.00 with duration of contravention ranging from two years five months 15 days to seven years 10 months six days approximately;

(b) Paragraph 9 (1) B of Schedule 1 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 persons resident outside India. The contravention relates to an amount of ₹ 1,59,71,250.00 with the duration of contravention ranging from one month five days to eight years three months 18 days approximately;



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- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 99,00,000.00 with the duration of contravention ranging from one month 18 days to two years six months approximately; and
- (d) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 2,42,88,976.00 with the duration of contravention ranging from three years seven months three days to eight years 11 months 24 days approximately.

8. 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 ₹ 5,67,910/- (Rupees five lakh sixty seven thousand nine hundred and ten only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 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 ₹ 5,67,910/- (Rupees five lakh sixty seven thousand nine hundred and ten 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.



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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 First day of June, 2018.

Sd/-

Dr. K Balu
Chief General Manager