



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

P Kalyan Chakravarthy
Assistant General Manager

Date: August 30, 2018
C.A. HYD 308

In the matter of

M/s. Apollo Cosmetic Surgical Center Private Limited
(applied by M/s. Apollo Health and Lifestyle Limited)
1-10-60/62, Ashoka Raghupathi Chambers
5th Floor, Begumpet
Hyderabad-500 016
Telangana

(Applicant)

In exercise of the powers conferred under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made there under, I pass the following

Order

The applicant has filed the compounding application dated April 30, 2018 received on May 10, 2018 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is, neither the equity instruments were issued nor amount refunded to the foreign investor, a person resident outside India within 180 days from the date of receipt of foreign inward remittance in terms of Paragraph 8 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations,



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2000 notified vide Notification No. FEMA.20/2000-RB dated 3rd May 2000 as then applicable.

2. The relevant facts of the case are as follows:

- a) The applicant is a resident company incorporated as Private Limited Company under the Companies Act, 1956 on 10.11.2010 (CIN: U85110TG2000PLC115819). The company is engaged in the business of Hospital activities.
- b) The applicant has acquired M/s. Apollo Cosmetic Surgical Center Private Limited (ACSCPL), vide High Court of Telangana order dated August 18, 2016. ACSCPL was originally incorporated as M/s. Chicago Cosmetic Surgery Centers Private Limited under the Companies Act, 1956 on 17.07.2007 (CIN: U85110TG2007PTC098959) and later changed its name on 21.12.2009.
- c) ACSCPL has received inward remittance of ₹ **9,85,250/-** from Mr. Sanjeev Kaila, non-resident Indian on 11.03.2009 towards advance for subscription to equity shares. However, the company (ACSCPL) could not allot shares or refund the share application money to the foreign investor since he is not traceable.
- d) The applicant, since took over ACSCPL, transferred the unallotted share application money to Investor Education and Promotion Fund (IEPF) on August 08, 2018 in accordance with the provisions of Section 125 of Companies Act, 2013 wherein it is mentioned that the share application money which is unclaimed for a period of 7 years shall be transferred to Investor Education and Promotion Fund. The details of the transaction is tabulated below:

| Sl No | Name of Remitter | Total Amount (INR) | Date of receipt | Date of transfer of money to IEPF |
|-------|------------------|--------------------|-----------------|-----------------------------------|
|-------|------------------|--------------------|-----------------|-----------------------------------|



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| | | | | |
|---|---------------|---------------|------------|------------|
| 1 | Sanjeev Kaila | 985250 | 11.03.2009 | 08.08.2018 |
| | Total | 985250 | | |

Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB read with A.P (DIR Series) Circular No. 20 dated December 14, 2007, 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 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/309/14.66.003/2018-19 dated August 27, 2018 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide their letter dated August 27, 2018 stated that they are foregoing appearing for the optional personal hearing and requested the disposal of the compounding application based on the documents submitted along with the



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application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. 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.20/2000-RB for delay in refund of unallotted share application money to the foreign investor beyond 180 days from the date of receipt and the contravention relates to an amount of ₹ 9,85,250/- and the period of contravention is 8 years 11 months 1 day approximately.

5. It has been declared in the compounding application dated April 30, 2018 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 April 30, 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 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.

6. 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 contravention is to be compounded and I consider that an amount of ₹ 37,389/- (**Rupees Thirty Seven Thousand Three Hundred Eighty Nine Only**) will meet the ends of justice.



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7. Accordingly, I compound the admitted contraventions, namely, the contravention of Paragraph 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 ₹ **37,389/- (Rupees Thirty Seven Thousand Three Hundred Eighty Nine Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 accordingly.

Dated this 30th day of August 2018

Sd/-

(P Kalyan Chakravarthy)
Assistant General Manager