



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 : July 06, 2018  
**C.A.789/2016**

In the matter of

**M/s. PAR Formulations Pvt Ltd.,**  
**(formerly M/s Novel therapeutics Pvt Ltd. & M/s Edict Pharmaceuticals Pvt Ltd.)**  
9/215, Pudupakkam Vandalur Main Road,  
Pudupakkam, Kelambakkam,  
Chennai- 603 103

**(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 April 20, 2018 (received at Reserve Bank on April 23, 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 Reserve Bank,



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(iii) delay in allotment of shares and iv) delay in refund of inward remittance received (v) delay in bringing in excess refund 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 September 22, 1982 under the provisions of the Companies Act, 1956 (Registration No. U33111TN1982PTC009602) and is engaged in business of manufacture of pharmaceuticals, medicinal chemical and botanical products. The applicant received foreign inward remittances from i) Mr. Muthusamy Shanmugam, USA, ii) M/s Kali Capital LLP, USA iii) M/s Par Pharmaceuticals Inc., USA 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	68,76,036.00	16.11.2007	14.12.2007
2	7,90,400.00	28.03.2008	28.04.2008
3	8,56,650.00	05.06.2008	04.07.2008
4	8,49,562.00	08.08.2008	07.11.2008
5	66,765.00	09.09.2008	20.09.2008
6	21,56,78,609.00	17.02.2012	14.03.2012
7	54,85,50,000.00	13.01.2015	30.01.2015
8	106,32,89,000.00	16.06.2015	29.06.2015

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay of two months approximately beyond the stipulated time of 30 days in respect of the remittance at Sl. No. 4. 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 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	15866	100	25,00,005.62	07.12.2008	26.03.2011
2	43000	100	21,56,78,540.00	13.08.2012	24.08.2012
3	73140	100	54,85,50,000.00	13.01.2015	30.01.2015
4	106328900	10	106,32,89,000.00	14.08.2015	21.09.2015

The applicant filed the form FC-GPRs as indicated above with delay ranging from seven days to two years two months 19 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sl. Nos. 1 and 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 07.12.2008 against four remittances as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	28.03.2008	7,90,400.00	07.12.2008
2	05.06.2008	8,56,650.00	07.12.2008
3	08.08.2008	8,49,562.00	07.12.2008
4	09.09.2008	66,765.00	07.12.2008

The company allotted shares against remittances at Sl. Nos. 1 and 2 with delay ranging from three days to two months nine days approximately without prior approval of Reserve Bank.

4a. The excess amount remaining after the above allotment was refunded as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	09.09.2008	63,337.00	14.11.2011



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The company refunded the amount with delay of two years eight months five 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 company failed to allot shares against the remittance of ₹68,76,036.00 received on 16.11.2007 and refunded ₹84,43,800.00 on 19.05.2009 with delay of one year three days approximately without 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

**5a.** However, the company instead of refunding foreign currency equivalent to the rupee consideration received, has refunded on 19.05.2009 the INR equivalent of the USD received on 16.11.2007 resulting in excess refund. The company has brought in the excess amount of refund as advised by Reserve Bank by way of inward remittance on 22.12.2017 with delay of eight years seven months three days approximately.

**6.** The applicant was advised about the contraventions vide memoranda dated September 15, 2017 and May 23, 2018. The applicant has filed a compounding application dated April 20, 2018 and an addendum to the application dated July 02, 2018 wherein it has been declared 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 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. 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.

7. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated June 29, 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 July 05, 2018 during which Shri C Sampath Kumar, Director and Shri Raghunath Rath, Senior Director, Legal & Compliance and Company Secretary represented the applicant. The authorized representatives of the applicant admitted the contravention as stated in para 2 to 5a 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.

8. 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 ₹ 8,49,562.00 with duration of contravention being two months 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



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₹ 106,57,89,005.62 with the duration of contravention ranging from seven days to two years two months 19 days approximately;

(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 ₹16,47,050.00 with the duration of contravention ranging from three days to two months nine days approximately;

(d) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of excess inward remittance received with prior approval of Reserve Bank. The contravention relates to an amount of ₹63,337.00 with the duration of contravention being two years eight months 5 days approximately;

(e) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of inward remittance received without prior approval of Reserve Bank. The contravention relates to an amount of ₹68,76,036.00 with the duration of contravention being one year three days approximately; and

(f) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in bringing in excess amount refunded. The contravention relates to an amount of ₹15,67,764.00 with the duration of contravention being eight years seven months three days approximately.

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 ₹2,40,846/- ( Rupees two lakh forty thousand eight hundred and forty six only) will meet the ends of justice.

10. 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,



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by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ **2,40,846/-** (Rupees two lakh forty thousand eight hundred and forty six 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. 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 Sixth day of July, 2018.

**Sd/-**  
**Dr. K Balu**  
**Chief General Manager**