



In the

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

Present

Ajay Kumar Misra
Chief General Manager

Date: July 10, 2018
CA No 4646 / 2018

In the matter of

Stallen South Asia Private Limited
6th Floor, Matharu Arcade, Subhash Road
Vile Parle (East), Mumbai - 400057

(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 application dated February 08, 2018 (received in the Reserve Bank on February 20, 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) delay in reporting receipt of funds for issue of shares, beyond the stipulated time period and (ii) delay in filing of form FC-GPR beyond the stipulated time period. The above amount to the contravention of Paragraphs 9(1)(A) and 9(1)(B) 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 May 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant was incorporated as Stallen South Asia Private Limited, on August 29, 1996, under the Companies Act, 1956 (CIN: U24230MH1996PTC102230). It is engaged in the business of wholesale trading of animal health products and feed additives, and deals in drugs, pharmaceutical, medicinal, chemical and hygiene products for animal health.

The applicant received certain foreign inward remittance from M/s Fatro S.P.A., Italy, on 27.05.2008. There was a delay of approximately nine years in reporting this inward remittance, beyond the stipulated period of 30 days, in contravention of Paragraph 9(1)(A) of Schedule I of Notification No. FEMA 20/2000-RB, as follows:

Name of remitter	Amount received (INR)	Date of receipt of funds	Date of reporting
Fatro S.P.A., Italy	1,36,00,000	27.05.2008	07.07.2017

Furthermore, there was a delay of approximately nine and a half years in filing Form FC-GPR after the allotment of shares against the abovementioned receipt of foreign remittance, beyond the stipulated period of 30 days, in contravention of Paragraph 9(1)(B) of Schedule I of Notification No. FEMA 20/2000-RB, as follows:

Amount for which shares allotted (INR)	Date of allotment of shares	Date of filing of FC-GPR
1,36,00,000	27.05.2008	03.11.2017



3. According to Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB, “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to this Schedule along with a copy/ies of Foreign Inward Remittance Certificate/s (FIRC), Know Your Customer (KYC) report on the non-resident investor and details of the Government approval, if any”.

Further, Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB, states that, “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares, a report in the Form FC-GPR as specified by the Reserve Bank from time to time....”.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/10383/15.20.67/2017-18 dated June 18, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on June 21, 2018 during which Shri Dhrumil Shah, Company Secretary, Ms. Monika Momaya, Company Secretary and Shri Vipul Thakkar, Chartered Accountant and authorized representatives of the applicant, represented the applicant. During the personal hearing, the representatives of the applicant stated that the delay in reporting the inward remittance had occurred because the AD Bank of the applicant had failed to issue the Foreign Inward Remittance Certificate (FIRC). The AD Bank, however, vide a letter dated July 07, 2017, addressed to the Mumbai Regional Office of the Reserve Bank of India, submitted KYC documents dated 14.02.2017, regarding the abovementioned inward remittance. The AD Bank also submitted a copy of letter from Unicredit Bank (through which the payment was received), indicating the details with respect to the abovementioned



transaction. It was also clarified in the letter that since the branch operations of Unicredit Bank had been closed in India, the FIRC was not received by the AD Bank, in lieu of which this letter was being issued. The applicant, then, vide e-mail dated 06.07.2018, confirmed its acceptance of the contravention of Paragraph 9(1)(A) of Schedule I of Notification No. FEMA.20/2000-RB. The applicant further requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated February 08, 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 subsequently declared in the declaration dated February 21, 2018, furnished as an addendum to 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 been 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. The application is, therefore, being considered based on the averments made in the application, the documents produced, and submissions made during the personal hearing and thereafter.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. It was observed that the applicant has contravened the provisions of Paragraphs 9(1)(A) and 9(1)(B) of Notification No.FEMA.20/2000-RB. The amounts and periods of contraventions are as follows:

(i) Para 9(1)(A) of Schedule 1 of Notification No. FEMA.20/2000-RB – Amount of contravention – Rs. 1,36,00,000/- and Period of contravention is 9 years 1 month approximately.



(ii) Para 9(1)(B) of Schedule 1 of Notification No. FEMA.20/2000-RB – Amount of contravention – Rs. 1,36,00,000/- and Period of contravention is 9 years 5 months approximately.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. Rs. 9,45,000/- (Rupees nine lakh forty five thousand only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Paragraphs 9(1)(A) and 9(1)(B) of Notification No.FEMA.20/2000-RB, on payment of a sum of Rs. 9,45,000/- (Rupees nine lakh forty five thousand only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th 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 accordingly.

Dated this the tenth day of July, 2018

Sd/-

Ajay Kumar Misra
(Chief General Manager)