



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
Central Vista, Sector 17, P.B.No.2
Chandigarh-160017

Present

Smt. Rachna Dikshit
Regional Director

Date: July 02, 2018
CA No CHA 19/2018

In the matter of

M/s Hitex Health Care Private Limited
Village Nangal Khurd, Tehsil Haroli, Una
Himachal Pradesh-174507

(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 May 29, 2018 (received at the Reserve Bank on May 31, 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 pertain to (i) delay in reporting of inward remittance against issue of equity shares and (ii) delay in submission of FC-GPR to the Reserve Bank after issue of shares which are in contravention of Para 9(1) (A) and Para 9(1) (B) respectively of Schedule 1 to Foreign Exchange Management (Transfer or issue of Security by a person Resident outside India) Regulation, 2000 notified vide Notification No. 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, M/s Hitex Health Care Private Limited is a private Limited company incorporated on May 15, 2014 under the Companies Act 2013. The applicant is engaged in the manufacturing of medical and surgical disposables.

3. The applicant company received foreign inward remittances towards investment in equity shares from non-resident and reported to RBI with delay as under:

S N	Inflow Amount (in Rs.)	Date of inflow	Actual Date of reporting to AD/RBI	Delay beyond 30 days
1	1,00,21,357.50	10.03.2017	22.05.2017	43 days

The above remittance was not reported to Reserve Bank of India within the prescribed time period. The applicant reported the receipt of remittances to Reserve Bank of India with delay of **43 days**, in contravention of Para 9(1) (A) of Schedule 1 to Notification No.FEMA 20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares 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.

4. The applicant company issued shares for the undermentioned remittances and reported the same to RBI with delay as under:

Sl No	Date of inflow	Amount	Shares issued on	Share Amount	Date of reporting to RBI	Delay beyond 30 days
1	30.10.14	92,64,000	30.10.14	92,63,479.40	20.01.2015	52 days
2	29.04.15	2,48,94,00	01.05.15	2,48,94,016.00	09.07.2015	39 days
3	10.03.17	1,00,21,37.50	21.03.17	1,00,21,345.74	22.09.2017	155 days



The applicant reported the allotment of shares to Reserve Bank with delay ranging from **39 days to 155 days**. The delay in reporting to Reserve Bank of India in form FCGPR, beyond the prescribed period in respect of allotment of the above shares is in contravention of paragraph 9(1) (B) of Schedule 1 to FEMA Notification No.20/2000RB dated May 3, 2000, in terms of which an Indian company issuing shares in accordance with these regulations has to submit to Reserve Bank of India a report in Form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to a person resident outside India.

5. The applicant was given an opportunity for personal hearing vide letter No.CHD.FE.CG/FID/1079/03.01.420/2017-18 dated June 12, 2018 for further submission in person and/or producing documents, if any, in support of the application. Shri Navin Sharma, Director and Shri TK Ramachandran, Manager (Admin) of the company appeared for the personal hearing on July 02, 2018. During the personal hearing, the representatives of the applicant admitted the contraventions committed by them for which they have sought compounding. The representative submitted that the contraventions were due to lack of awareness of the procedural requirements and were not intentional and have requested for taking a lenient view in the matter. The application is, therefore, being considered on the basis of the averments made in the application, and documents produced.

6. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

- (a) Paragraph 9 (1) (A) of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of foreign inward remittance towards subscription to equity as detailed in paragraph 3 above. The contravention relates to an amount of Rs. **1,00,21,357.50** with delay of **43 days**.
- (b) Paragraph 9 (1) (B) of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FCGPR to Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 4 above. The



M/s Hitex Health Care Pvt. Ltd.
CA No. CHA 19/2018

contravention relates to an amount of Rs. **4,41,79,357.50** with delay ranging **from 39 days to 155 days.**

7. In terms of Section 13 of 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 **Rs. 62,762.00 (Rs Sixty Two thousand Seven Hundred & Sixty Two only)** will meet the ends of justice.

8. Accordingly, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, I compound the admitted contraventions committed by the applicant namely, Para 9(1) (A) and Para 9(1) (B) of schedule 1 to Notification No. FEMA 20/2000RB dated May 3, 2000 on the facts discussed above, on payment of an amount of **Rs. 62,762.00 (Rs Sixty Two thousand Seven Hundred & Sixty Two only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Central Vista, Sector 17, Chandigarh-160017 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at "Chandigarh" **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 02nd day of July 2018.

-Sd-

Rachna Dikshit
Regional Director



M/s Hitex Health Care Pvt. Ltd.
CA No. CHA 19/2018