



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: October 4, 2018  
CA No 4759 / 2018

In the matter of

**Fertin India Private Limited**  
**L-10 & L-11, Cuncolm Industrial Estate**  
**Cuncolm Salcette, South Goa - 403703**

**(Applicant)**

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

**Order**

The applicant has filed the application dated August 01, 2018 (received in the Reserve Bank on August 02, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant company has sought to be compounded for (i) delay in reporting of 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, in 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 company, namely, Fertin India Private Limited (CIN: U24233GA2013FTC007857), was incorporated in Goa on May 25, 2013, under the Companies Act, 1956. It is a wholly owned subsidiary (WOS) of M/s Fertin Pharma A/S, Denmark. It is engaged in the business of manufacturing of medicated chewing gums.

The applicant received certain foreign inward remittances, the details of which are as follows:

S.No.	Name of remitter	Amount received (INR)	Date of receipt of funds	Date of reporting
1	Fertin Pharma A/S	10,84,160	11.07.2013	30.08.2013
2	The Investment Fund for Developing Countries (IFU)	2,61,83,000	08.01.2015	07.05.2015
3	Fertin Pharma A/S	3,00,00,000	28.01.2015	07.05.2015
4	Fertin Pharma A/S	30,00,000	04.03.2015	07.05.2015
5	Fertin Pharma A/S	2,70,00,000	05.03.2015	07.05.2015
6	IFU	1,00,00,000	10.03.2015	07.05.2015
7	Fertin Pharma A/S	2,26,09,428	23.09.2015	30.12.2015
8	IFU	1,31,21,875	20.05.2016	01.07.2016
9	Fertin Pharma A/S	2,67,00,000	19.08.2016	15.12.2016
10	Fertin Pharma A/S	92,03,000	07.11.2016	15.12.2016
Total		16,89,01,463		

There was a delay in reporting the abovementioned inward remittances, beyond the stipulated period of 30 days, in contravention of Paragraph 9(1)(A) of Schedule I of Notification No. FEMA 20/2000-RB.

Furthermore, the applicant filed the Form FC-GPR, after the allotment of shares, with respect to certain foreign inward remittances, with a delay beyond



the stipulated period of 30 days, in contravention of Paragraph 9(1)(B) of Schedule I of Notification No. FEMA 20/2000-RB. The details of such transactions are as follows:

S.No.	Name of remitter	Amount for which shares allotted (INR)	Date of allotment of shares	Date of reporting
1	Fertin Pharma A/S	10,00,000	31.12.2013	25.03.2014
2	Fertin Pharma A/S	7,23,41,984	07.02.2014	02.04.2014
3	Fertin Pharma A/S	52,61,088		
4	IFU	2,61,83,000	10.02.2015	10.08.2015
5	Fertin Pharma A/S	3,00,00,000	16.02.2015	10.08.2015
6	Fertin Pharma A/S	3,00,00,000		
7	IFU	1,00,00,000	23.03.2015	10.08.2015
8	IFU	1,75,54,500	03.09.2015	21.12.2015
9	Fertin Pharma A/S	2,26,09,428	16.10.2015	30.05.2016
10	Fertin Pharma A/S	1,66,00,000	28.12.2015	30.05.2016
11	Fertin Pharma A/S	1,67,16,831	18.02.2016	31.05.2016
12	Fertin Pharma A/S	95,45,996	21.05.2016	19.08.2016
13	IFU	1,31,21,802	21.05.2016	06.07.2017
14	Fertin Pharma A/S	2,67,00,000	10.10.2016	04.05.2018
15	Fertin Pharma A/S	92,00,000	16.12.2016	05.03.2018
16	Fertin Pharma A/S	1,88,65,800	24.03.2017	22.03.2018
17	Fertin Pharma A/S	1,52,17,140	03.05.2017	17.01.2018
18	Fertin Pharma A/S	1,23,84,600	27.09.2017	17.01.2018
Total		35,33,02,169		

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/1275/15.20.67/2017-18 dated August 31, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on September 21, 2018 during which Shri Shiraj. V. Deshpande, Senior Accountant, Fertin India Private Limited, represented the applicant. During the personal hearing, the representative of the applicant stated that the reporting delays were inadvertent and requested that a lenient view may be taken in the matter.

It has been declared in the compounding application dated August 01, 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 also declared in the declaration filed along 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 been 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.



The application is, therefore, being considered based on the averments made in the application, the documents produced, and submissions made during the personal hearing.

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. 16,89,01,463/- and Period of contravention ranges from 7 days to 3 months approximately.

(ii) Para 9(1)(B) of Schedule 1 of Notification No. FEMA.20/2000-RB – Amount of contravention – Rs. 35,33,02,169/- and Period of contravention ranges from 23 days to 1 year and 6 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. 4,48,042/- (Rupees four lakh forty eight thousand and forty two 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. 4,48,042/- (Rupees four lakh forty eight thousand and forty two 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 fourth day of October, 2018

Sd/-

**Ajay Kumar Misra**  
**(Chief General Manager)**