



In the

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

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: November 05, 2018
C.A. HYD 319

In the matter of

M/s. Omnicare Drugs India Private Limited
Office No. 401, 4th Floor
Manjeera Trinity Corporate
JNTU-Hitech City Road
Kukatpally, Hyderabad
Telangana – 500 072

(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 June 15, 2018 received on June 15, 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 foreign inward remittances and (ii) delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares towards subscription to equity in terms of Paragraph 9(1)(A) and Paragraph 9(1)(B) respectively of Schedule 1 to Foreign



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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 03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) 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, 2013 on 03.04.2017 (CIN: U74999TG2017PTC116303). The company is engaged in the business of manufacturing and marketing pharmaceuticals and bulk drugs.
- b) The applicant had received foreign inward remittances from various foreign investors towards advance for subscription to equity shares as indicated below.

SI No	Name of the Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Neopharma LLC	139999936	12-04-2017	08-05-2017
2	Neopharma LLC	69999972	31-05-2017	18-07-2017
3	Bavaguthu Raghuram Shetty	56700000	21-06-2017	28-08-2017
4	Neopharma LLC	6999936	02-11-2017	27-12-2017
	Total	27,36,99,844		

The applicant received the foreign inward remittances amounting to **₹27,36,99,844/-** as indicated above out of which remittances amounting to **₹13,36,99,908/-** were reported to Reserve Bank of India with delays ranging from 18 days to 1 month 7 days approximately beyond the prescribed period of 30 days. Whereas in terms of Paragraph 9(1)(A) of Schedule 1 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



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as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

c) The company allotted shares and filed form FC-GPRs as indicated below:

SI No.	Name of the Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	Neopharma LLC	05-04-2017	9500	95000	16-12-2017
	Satyanarayana Nandiraju murthy		500	5000	
2	Neopharma LLC	10-06-2017	13989990	139899900	16-12-2017
3	Neopharma LLC	29-07-2017	6999997	69999970	16-12-2017
4	Bavaguthu Raghuram Shetty	18-08-2017	5670000	56700000	16-12-2017
		Total	26669987	26,66,99,870	

The applicant filed form FCGPRs for issue of shares amounting to ₹ **26,66,99,870/-** as indicated above and the same were reported with delays ranging from 2 months 29 days to 7 months 11 days approximately beyond the stipulated period of 30 days. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA 20/2000-RB, 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 person resident outside India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/798/14.66.003/2018-19 dated October 26, 2018 for further submission in person and/or producing documents, if any, in support of the application.



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(b) The applicant appeared for personal hearing on November 02, 2018 during which Shri. G Murali Krishna, Chartered Accountant represented the applicant. The authorized representative of the company admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention but was on account of lack of professional guidance on the compliance matters during their initial stages. In view of the foregoing, the representative of the applicant requested to take a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

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 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of shares amounting to ₹13,36,99,908/- and the delay ranges from 18 days to 1 month 7 days approximately.

(b) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 26,66,99,870/- and the period of contravention ranges from 2 months 29 days to 7 months 11 days approximately.

5. It has been declared in the compounding application dated June 15, 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 June 15, 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



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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 **₹ 1,12,730/- (Rupees One Lakh Twelve Thousand Seven Hundred Thirty Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1)(A) and Paragraph 9(1)(B) 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 **₹1,12,730/- (Rupees One Lakh Twelve Thousand Seven Hundred Thirty 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 05th day of November 2018

Sd/-



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(Subrata Das)
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)