



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Central Vista, Sector 17,
Chandigarh-160017

Present

Sh. Nirmal Chand
Regional Director

Date: March 16, 2017
CA No CHA 8/2017

In the matter of

Wuxi Yushou Medicare Pvt. Ltd.
2238, Phase 7, S A S Nagar,
Mohali (Punjab) 160 061

(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 February 20, 2017 (received at the Reserve Bank on February 20, 2017) 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 (ii) delay in submission of FC-GPR to the Reserve Bank after issue of shares and (iii) delay in application for refund of excess amount which are in contravention of Para 9(1) (A), Para 9(1) (B) and Para 8 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, Wuxi Yushou Medicare Pvt. Ltd. is a private Limited company duly incorporated under the Companies Act, 1956 on December 28, 2012. The applicant is engaged in manufacturing, import & export of medical disposables including auto disposable and safety syringes.

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

Sr. No	Name of the remitter	Amount of Remittance Rs.	Date of receipt	Date of reporting to RBI
1	Wuxi Yushou Medical Appliances Co. Ltd. China	16,42,980.00	21-Jun-13	19-May-14
	Total	16,42,980.00		

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 **302 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:

S N	Name of the Investor	Date of allotment of Shares	Number of Shares allotted	Amount for which shares allotted (Rs)	Date of reporting of FC-GPR
1	Wuxi Yushou Medical Appliances Co. Ltd. China	24-Jun-13	1,50,000 Equity	15,00,000.00	19-Sep-14
2	Wuxi Yushou Medical Appliances Co. Ltd. China	01-Jan-15	8,72,800 Equity	87,28,318.00	26-May-15
Total Amount				1,02,28,318.00	

The applicant reported the allotment of shares to Reserve Bank with delay ranging **from 115 to 422 days approximately**. 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 company issued shares and applied for permission to refund of excess amount with delay as under –

Date of inward remittance	Date of application for refund	Total Refund amount
21-Jun-13	11-Aug-14	1,42,980.00

The applicant applied for permission to refund the excess amount with delay of **416 days**. The delay in applying for refund of excess amount, beyond the prescribed period is in contravention of paragraph 8 of Schedule 1 to FEMA Notification No. 20/2000RB dated May 3, 2000, in terms of which an Indian company in accordance with these regulations has to refund the excess amount within 180 days from the date of receipt of the amount of consideration.

6. The applicant was given an opportunity for personal hearing vide letter No.CHD.FE.CG/FID/1366/03.01.406/2016-17 dated March 10, 2017 for further submission in person and/or producing documents, if any, in support of the application. Shri G. S. Sarin, Company Secretary of M/s Wuxi Yushou Medicare Pvt. Ltd. appeared for the personal hearing on March 16, 2017. 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.

7. 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. **16,42,980.00** with delay of **302 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 contravention relates to an amount of Rs. **1,02,28,318.00** with delay ranging **from 115 to 422 days approximately**.

(c) Paragraph 8 of schedule 1 to Notification No. FEMA 20/2000-RB due to delay in application for permission to refund the excess amount as detailed in paragraph 5 above. The contravention relates to an amount of **Rs. 1,42,980.00** for refund with delay of **416 days**.

8. 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. 73,500.00 (Rupees Seventy Three Thousand Five Hundred only)** will meet the ends of justice.

9. 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), Para 9(1) (B) and Para 8 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. 73,500.00 (Rupees Seventy Three Thousand Five Hundred 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 16th day of March 2017.

Sd/-

(Nirmal Chand)
Regional Director