



In the

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

Present

**Shekhar Bhatnagar**  
**Chief General Manager**

Date: April 27, 2017  
CA No. 4255/2016

In the matter of

**Beaver Visitec Ophthalmic Private Limited**  
**Regus 5<sup>th</sup> and 6<sup>th</sup> Floor, Mafatlal House**  
**H.T. Parekh Marg, Backbay Reclamation**  
**Mumbai - 400020**

**(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 December 07, 2016 (received in the Reserve Bank of India on December 14, 2016) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is borrowing (expenditure occurred by parent company on behalf of the applicant, not paid within the stipulated time period) in foreign exchange from its group companies abroad without meeting the stipulated conditions, in contravention of Regulation 3 read with Schedule I of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as Notification No. FEMA 3/2000-RB).



2. The relevant facts of the case are as follows: The applicant was incorporated in India, as Beaver Visitec Ophthalmic Private Limited on October 07, 2010 (CIN: U33112MH2010FTC208746). The applicant is engaged in the business of manufacture of ophthalmic products. The applicant was incorporated as a subsidiary of Beaver – Visitec International Sales Ltd., UK. Since its incorporation in 2010, the applicant had been incurring certain expenditure that was paid by its parent company as follows:

S.No.	Name of the parent company	Date of transaction	Amount (INR)
1	Beaver Visitec International Sales Ltd., UK	31.12.2010	53530
2	-do-	03.09.2010	8890
3	-do-	16.09.2010	77093
4	-do-	15.11.2010	2184
5	-do-	07.12.2010	282210
6	-do-	20.01.2011	297680
7	-do-	22.02.2011	347289
8	-do-	21.03.2011	336937
9	-do-		2308
10	-do-	10.05.2011	21568
11	-do-	10.05.2011	26019
12	-do-	10.05.2011	51437
13	-do-	13.06.2011	18451
14	-do-	20.06.2011	32937
15	-do-	24.05.2011	4625
16	-do-	07.06.2011	14408
17	-do-	15.07.2011	17532
18	-do-	20.07.2011	14754
19	-do-	15.08.2011	36445
20	-do-	14.09.2011	21540
21	-do-	14.09.2011	15939
22	-do-	14.09.2011	22217



23	-do-	19.09.2011	29166
24	-do-	21.10.2011	30382
25	-do-	21.10.2011	31266
26	-do-	21.10.2011	15734
27	-do-	04.11.2011	27792
28	-do-	04.11.2011	32518
29	-do-	17.11.2011	29331
30	-do-	17.11.2011	29055
31	-do-	09.12.2011	6983
32	-do-	09.12.2011	19914
33	-do-	28.12.2011	21834
34	-do-	31.01.2012	26693
35	-do-	31.01.2012	22961
36	-do-	31.01.2012	16188
37	-do-	08.02.2012	19305
38	-do-	08.02.2012	12433
39	-do-	08.03.2012	17253
40	-do-	08.03.2012	38165
41	-do-	31.03.2012	29315
42	-do-	31.03.2012	37370
43	-do-	20.04.2011	7080
44	-do-	20.05.2011	13771
45	-do-	23.05.2011	282000
46	-do-	21.06.2011	333000
47	-do-	22.08.2011	333000
48	-do-	19.09.2011	277000
49	-do-	27.10.2011	241000
50	-do-	17.11.2011	282000
51	-do-	15.12.2011	281000
52	-do-	18.01.2012	282000
53	-do-	15.02.2012	282000
54	-do-	18.01.2012	235500



55	-do-	15.02.2012	280000
56	-do-	15.03.2012	1301001
57	-do-	01.08.2011	71342
58	-do-		1650
59	-do-	14.05.2012	16805
60	-do-	07.06.2012	27161
61	-do-	10.07.2012	17080
62	-do-	10.07.2013	69676
63	-do-	07.08.2012	14063
64	-do-	07.08.2012	14328
65	-do-	21.08.2012	15539
66	-do-	12.09.2012	17564
67	-do-	10.10.2012	34609
68	-do-	10.10.2012	44077
69	-do-	19.11.2012	18131
70	-do-	27.11.2012	51518
71	-do-	14.12.2012	15060
72	-do-	14.12.2012	83461
73	-do-	11.01.2013	48829
74	-do-	18.04.2012	422000
75	-do-	16.05.2012	262000
76	-do-	18.06.2012	262000
77	-do-	18.07.2012	262000
78	-do-	16.08.2012	263000
79	-do-	14.09.2012	262000
80	-do-	15.10.2012	262000
81	-do-	15.11.2012	262000
82	-do-	14.12.2012	395000
83	-do-	14.09.2012	24225
84	-do-	23.08.2013	8528
85	-do-	23.08.2013	8528
86	-do-	23.08.2013	20518



87	-do-	23.08.2013	76753
88	-do-	13.11.2014	84270
89	-do-	13.11.2014	22472
90	-do-	16.03.2015	28090
91	-do-	05.11.2014	28090
92	-do-	05.11.2014	28090
93	-do-	05.11.2014	28090
94	-do-	28.07.2014	3506
95	-do-	09.09.2014	85281
	Total		10289336

The payments since remitted to the parent company, on October 18, 2016, amounted to external commercial borrowings, thereby contravening Regulation 3 read with Schedule I of Notification No. FEMA 3/2000-RB. The post facto approval was provided by RBI vide its letter dated August 29, 2016, subject to compounding.

3. Regulation 3 of Notification No. FEMA 3/2000-RB states that, "Save as otherwise provided in the Act, Rules or Regulations made thereunder, no person resident in India shall borrow or lend in foreign exchange from or to a person resident in or outside India...."

Whereas Schedule I of the same Notification stipulates certain conditions for borrowings in foreign exchange under the automatic route.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA/9825/15.20.67/2016-17 dated March 31, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on April 11, 2017 during which Ms. Shyamalene Siqueira, Legal Advisor and Ms. Pallavi Satpute, Legal Advisor, represented the applicants. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.



6. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 3 read with Schedule I of Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time. The amount of contravention is Rs. 1,02,89,336/- and period of contravention ranges from one year to six years approximately.

7. 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 contraventions are to be compounded and I consider that an amount of Rs. 1,22,022/- (Rupees one lakh twenty two thousand and twenty two only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 3 read with Schedule I of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, as amended from time to time, by the applicant as stated above on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 1,22,022/- (Rupees one lakh twenty two thousand and twenty two only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> 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 of accordingly.

Dated this the twenty seventh day of April, 2017

**Sd/-**

**(Shekhar Bhatnagar)**  
**Chief General Manager**