



In the

Reserve Bank of India
Foreign Exchange Department
Mumbai Regional Office
Main Building, 3rd floor
Shahid Bhagat Singh Marg, Fort
Mumbai 400 001

Present

Shri. Gautam Prasad Borah
Chief General Manager

Date: April 10, 2017

C.A. No. 678/2016

In the matter of

M/s Lupin Limited
3rd Floor, Kalpataru Inspire,
Off Western Express Highway,
Santacruz (East),
Mumbai 400 055.

(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 thereunder, I pass the following

Order

1. The applicant has filed the compounding application dated December 21, 2016 (received at the Reserve Bank on December 23, 2016) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is issue of ESOPs to Non Resident Employees, without prior approval of FIPB, in terms of paragraph 3 of Schedule I to FEMA 20/2000-RB dated May 03,



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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 was incorporated on March 01, 1983 under the Companies Act, 1956 as M/s Lupin Chemicals Pvt. Ltd., thereafter name was changed as M/s Lupin Chemicals Ltd. on December 23, 1991. Finally, name was again changed to M/s Lupin Ltd. on August 02, 2001. The main activity of the applicant is to manufacture, produce, formulate, process, refine, finish, recover, extract, buy, sell, export, import, distribute and deal in chemicals of all kinds, organic or inorganic, including acids, alkalis, synthetic ammonia, fertilisers, chromates, zinc oxide, barytes, lead nitrate, lead acetate, chlorine, bleaching powder, caustic soda, hydrosulfite mineral intermediates both synthetic and natural, fermentation products, such as alcohols, acetone, acids and vinegar etc. petroleum and its products, petro chemicals, dyes, colours and intermediaries, for dyes and colours, animal and vegetable oils, fats and waxes, extraction of oils from oil-cake, essential oils, perfume, flavours and pigments, paints, varnishes, liquors, glycerine, explosive, plastics, linoleum, natural and synthetic resins, rosins, camphor, gelatine, glue, photographic chemicals, insecticides, fungicides, disinfectants, agricultural chemicals, activated carbon, synthetic rubber, textile chemicals, wetting agents and chemicals in general, paper of all kinds and articles made from paper or pulp and materials used in the manufacture or treatment of paper, including cardboard, mill boards, wall and ceiling papers and without limiting the generality of the foregoing to manufacture and deal in boxes, cartons, wrappers and other packing and packaging material made of paper, cardboard and boards of whatever commercial description, wood, plastics, polythene, polyolefins and similar products, makers of and dealers in proprietary articles of all kinds, and of chemical, photographic, hospital, surgical, electrical, scientific and other apparatus, appliances, instruments and materials.

3. The Company had provided Options and allotment of shares in terms of Reg. 8 of Notification 20/2000-RB dated May 03, 2000 amounting to Rs 92.05 crores, i.e. under "ESOP Scheme" to its non-resident employees. The company approached



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FIPB on August 27, 2015 for post facto approval for issue of shares under ESOP and obtained amended FIPB approval on March 28, 2016 with a delay of 4 years 3 months and 19 days approximately. FIPB has further stated that government approval is required at the time of issuance of ESOPs and not at the time of grant of shares when the option is exercised. The company has issued ESOPs amounting to Rs 92.05 crores between December 09, 2011 and June 06, 2015. However the actual remittance against the exercise of these ESOPs is Rs 1.48 crores approximately. Thus company has contravened Para 3 of schedule 1 to notification No. FEMA 20/2000-RB dated May 03, 2000.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FED.MRO.CEFA/2016-17 dated March 27, 2017 for further submission in person and/or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on March 30, 2017, during which Mr. Suresh Chettiar, Vice President, Finance and Mr. Jignesh Purohit, Manager, Treasury represented the applicant. The representatives of the applicant admitted the contravention for which compounding has been sought. During the personal hearing it was submitted that the delay was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing a lenient view may be taken 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 as other documents and submissions submitted along with the application.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of Para 3 of Schedule 1 to Notification No. FEMA 20/2000-RB due to the issue of ESOPs without approval of FIPB and the contravention relates to an amount of Rs. 1.48 cr. with a delay of 4 years 3 months and 19 days 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 contraventions upon adjudication. However, taking into account the relevant facts



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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. 1,53,600/- (Rupees One Lakh Fifty Three Thousand Six Hundred only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contravention of paragraph 3 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 1,53,600/- (Rupees One Lakh Fifty Three Thousand Six Hundred only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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 03, 2000 shall apply.

8. The above order is passed only in respect of contravention of paragraph 3 of Schedule 1 to Notification No. FEMA 20/2000-RB and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Date: April 10, 2017

Compounding Authority

Sd/-

(Gautam Prasad Borah)
Chief General Manager