



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

R Kesavan
Chief General Manager

Date : April 17, 2017
C.A.629/2016

In the matter of

M/s. Malladi Drugs & Pharmaceuticals Ltd.,
No.9, G S T Road,
St Thomas Mount,
Chennai- 600 016

(Applicant)

In exercise of the powers 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 January 05, 2017 (received at Reserve Bank on January 05, 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 are



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(i) delay in reporting of inflow of funds received from a person resident outside India for allotment of shares; (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank, in terms of Paragraph 9 (1) A, Paragraph 9 (1) B, respectively of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 and (iii) Issue of ineligible instruments in terms of Regulation 2(ii) read with Regulation 5(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 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 August 21, 1980 under the provisions of the Companies Act, 1956 (Registration No. U24230TN1980PLC008382) and is engaged in Business of manufacture of medicinal substances used in the manufacture of pharmaceuticals: antibiotics, endocrine products, basic vitamins; opium derivatives; sulpha drugs; serums and plasmas; salicylic acid, its salts and esters; glycosides and vegetable alkaloids; chemically pure sugar etc. The applicant received foreign inward remittances from M/s. LOF Mauritius LLC, Mauritius towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No.	Amount of Foreign Inward Remittance (in Rs.)	Date of receipt	Reported to RBI on
1	5,00,00,000	07.04.2005	25.05.2005
2	45,95,620	22.10.2008	23.06.2011

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 18 days to two years seven months one day approximately beyond the stipulated time of 30 days in respect of the remittances. Whereas, in terms of paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with



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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.

3. The company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of shares allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	599984	5	5,00,02,667	09.04.2005	25.05.2005
2	919124	5	45,95,620	12.12.2008	16.02.2009

The applicant filed the form FC-GPR as indicated above with delay ranging from 16 days to one month four days approximately beyond the stipulated time of 30 days in respect of the allotments. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company has allotted 919124 warrants at an exercise price of ₹ 5/- each as indicated below:

Sl. No.	Date of Allotment	Amount (INR)	Date of FIPB approval
1	05.04.2005	45,95,620	16.05.2014

The applicant regularized the issue of ineligible instruments by obtaining post facto approval from FIPB with delay of nine years one month 11 days. Whereas in terms of Regulation 2(ii) read with Regulation 5(1) of Notification No. FEMA 20/2000-RB, Capital means equity shares, preference shares, convertible preference shares, and convertible debentures.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 10, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on April 13, 2017 during which Shri R Krishnan, Executive Director-Finance & Company



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Secretary and Shri Sharad Jain, Financial Consultant represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in para 2 to 4 above committed by the applicant for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested to take a lenient view in the matter. 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 made in this context by the applicant during personal hearing.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. 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 due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 5,45,95,620/- and the duration ranging from 18 days to two years seven months one day approximately;
- (b)** Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India. The contravention relates to an amount of ₹ 5,45,98,287/- and the duration of contravention ranging from 16 days to one month four days approximately; and
- (c)** Regulation 2(ii) read with Regulation 5(1) of Notification No. FEMA 20/2000-RB due to issue of ineligible instruments. The contravention relates to an amount of ₹ 45,95,620/- and the duration of contravention is nine years one month 11 days approximately.



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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 ₹ 1,32,347/- (Rupees one lakh thirty two thousand three hundred and forty seven only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB, and

Regulation 2(ii) read with Regulation 5(1) of 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 ₹ 1,32,347/- (Rupees one lakh thirty two thousand three hundred and forty seven only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai 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 Seventeenth day of April, 2017.

Sd/-

R Kesavan
Chief General Manager