



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.622/2016

In the matter of

M/s.Trivitron Healthcare Pvt Ltd.,
Trivitron Sapthagiri Bhawan,
15, IV Street, Abhiramapuram,
Chennai-600018

(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 December 21, 2016 (received at Reserve Bank on December 22, 2016) 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 and (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank in terms of Paragraph 9 (1) A and 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 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 May 18, 1998 under the provisions of the Companies Act, 1956 (Registration No. U85110TN1998PTC040515) and is engaged in Business of manufacture of irradiation, electro-medical and electrotherapeutic equipment. The applicant received foreign inward remittances from (i) M/s E-Planet Ventures II L.P., Mauritius (ii) M/s.Hav2(Mauritius) Ltd., Mauritius and (iii) M/s FIL Capital Management(Mauritius) Ltd., 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	18,50,95,575.00	25.10.2007	28.06.2010
2	18,50,95,575.00	30.10.2007	21.01.2010
3	93,54,75,087.00	23.10.2012	20.11.2012

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging two years one month 21 days to two years seven months three days approximately beyond the stipulated time of 30 days in respect of the remittances at Sr. Nos. 1 & 2. 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 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/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	189550	10	37,01,91,150.00	31.10.2007	22.01.2010
2	101297	10	93,54,74,756.09	23.10.2012	22.11.2012
3	540252	10	54,02,520.00	04.12.2013	06.01.2014

The applicant filed the form FC-GPR as indicated above with delay ranging from three days to two years one month 21 days approximately beyond the stipulated time of 30 days in respect of the allotments at Sr. Nos. 1 & 3. 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 applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated April 11, 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 Ms. Nithya Pasupathy, Director of Prowis Corporate Services Pvt Ltd. represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in para 2 & 3 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 the personal hearing.



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5. 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 ₹ 37,01,91,150/- with the duration ranging from two years one month 21 days to two years seven months three days approximately; and
- (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 ₹ 37,55,93,670/- with the duration of contravention ranging from three days to two years one month 21 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 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 ₹ 7,21,560/- (Rupees seven lakh twenty one thousand five hundred and sixty only) will meet the ends of justice.

7. 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, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹ 7,21,560/- (Rupees seven lakh twenty one thousand five hundred and sixty only) which shall be



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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