



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. G. P. Borah**  
Chief General Manager

**Date: August 08, 2017**

**C.A. No. 702/2017**

In the matter of

**M/s Enaltec Labs Pvt. Ltd.**  
1706, 17 th Floor, Kesar Solitaire,  
Plot no 5, Sector 19, Sanpada,  
Navi Mumbai 400 705

**(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**

1. The applicant has filed the compounding application dated June 13, 2017 (received at the Reserve Bank on June 15, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is failure to obtain, specific and prior Government (FIPB) approval for issue of shares to a person resident outside India under Government route in terms of paragraph 3 of Schedule 1 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) read with A.P. (Dir Series) Circular No. 56, dated December 09, 2011.

2. The relevant facts of the case are as follows: The applicant company was incorporated on February 24, 2006 under the Companies Act, 1956. It is engaged in the business of Research and Development manufacturers, refiners, importers, exporters, traders, packers, developers of technologies for all types of pharmaceutical ingredients and intermediaries, medicines and medical preparations, medicinal drugs, bulk drugs, formulations, laboratory raw materials and bio-chemicals, etc. The applicant received foreign inward remittance of Rs.2,27,49,917/- from M/s Medtech Limited, UAE on August 29, 2011 and reported the same to the Reserve Bank on September 28, 2011. The company allotted 1,51,666 Compulsory Convertible Preference Shares (CCPS) against Rs.2,27,49,900/- to M/s Medtech Limited, UAE on February 16, 2012 without obtaining specific approval of Foreign Investment Promotion Board (FIPB). Whereas in terms of Paragraph 3 of Schedule 1 of Notification No. FEMA 20/2000-RB, read with A.P. (Dir Series) Circular No. 56, dated December 09, 2011, FDI, up to 100 per cent, would be permitted for brownfield investment (i.e. investments in existing companies), in the pharmaceutical sector, under the Government approval route.

3. Subsequently the Company approached FIPB on November 28, 2016 (Proposal No. 4401 dt December 02, 2016) seeking post facto approval for issuance of the aforementioned CCPS. FIPB vide their letter reference no. F. No. 006(2017)/117(2016) dated April 25, 2017 conveyed the post facto approval of Government of India subject to compounding by the Reserve Bank of India for issue of CCPS, from the date of issuance of CCPS to the date of issuance of FEMA Notification no. 381/2016-RB (issued on December 07, 2016), in terms of Paragraph 3 of Schedule I to FEMA 20/2000-RB dated May 03, 2000.

4. The applicant was given an opportunity for personal hearing vide e-mail dated July 12, 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



July 18, 2017 during which Mr. Ajit Talwar (Asst. Vice President, Finance) represented the applicant in the cabin of Shri G. P. Borah, Chief General Manager, Mumbai Regional Office. The representative of the applicant admitted the contravention for which compounding has been sought. During the hearing it was submitted that 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 made in this context by the applicant during personal hearing and thereafter.

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 Paragraph 3 of Schedule 1 to Notification No. FEMA 20/2000-RB as the applicant had not obtained prior and specific approval from FIPB, Government of India for issue of CCPS to M/s Medtech Ltd. UAE. The amount of contravention is Rs.2,27,49,900/- and the duration is 4 years 9 months 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 Rs. 2,09,249/- (Rupees Two Lakh Nine Thousand Two Hundred Forty Nine only) will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 3 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 Rs. 2,09,249/- (Rupees Two Lakh Nine Thousand Two Hundred Forty Nine only) which shall be



**FED, MRO**  
**M/s Enaltec Labs Pvt. Ltd.**  
**C.A. No.702/2017**

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 3, 2000 shall apply.

8. The above order is passed only in respect of contraventions of paragraph 3 of Schedule I 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: August 08, 2017

**Compounding Authority**

**Sd/-**

**(G. P. Borah)**  
**Chief General Manager**