



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
N Senthil Kumar
General Manager

July 14, 2017
CEFA.CO.ID.7993 / C.A.No. AHM - 80 /2017-18

In the matter of
M/s Consure Medical Pvt. Ltd.

7/4626, Dangi Shrei No. 3, Mahatma Gandhi Road, Nr. Delhi Gate, Surat – 395003
Gujarat

(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:

Order

The applicant has filed compounding application dated March 8, 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 (i) delay beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay



beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India and (iii) Delay in refund of excess amount from inward remittances by 23 days beyond the stipulated period of 180 days from the date of receipt of the inward remittance; in terms of paragraphs 9(1)(A), 9(1)(B) and Paragraph 8 respectively, 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 3rd May 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 November 25, 2011 under the provisions of the Companies Act, 1956 and the company is engaged in business activity of “wholesale of scientific medical and surgical machinery and equipment”. The applicant company has received total six inflows amounting to **₹25,66,60,183/-** (Rupees twenty five crore, sixty six lakh, sixty thousand one hundred eighty three only) from Foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected:

(Table -1)

Sr No	Remitter	Date of receipt	Amount of foreign inward remittance (Rs)	Date of reporting to AD bank by company*	Date of reporting by AD bank to RBI	Days delay excluding prescribed time of 30 days*
1	Mr Sadeesh Raghwan	06/06/2012	736655	19/07/2013	19-07-2013	378 days
2	India Venture Partenership Ltd	27/06/2012	5050457	19/07/2013	19-07-2013	357 days
3	Mr Jayesh A Parekh	13-06-2012	605391	23/11/2016	23-11-2016	1594 days
	Sub Total A		6392503			
4	ACCEL India IV (Mauritius) Ltd	09/12/2015	247010400	22/12/2015	28/12/2015	No delay
5	Mr Jayesh A Parekh	14/12/2015	1809600	11/01/2016	11/01/2016	No delay
6	Mr Nagendra Bandaru	19/01/2016	1447680	16/02/2016	07/03/2016	No delay
	Sub Total B		250267680			



Grand Total (A+B)	256660183			
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*For calculation of days of delay under 9(1) (A) reporting to AD is taken as reporting to RBI.

The applicant reported the receipt of six inward remittances, amounting to **₹25,66,60,183/-** (Rupees twenty five crore, sixty six lakh, sixty thousand one hundred eighty three only) to the Ahmedabad Regional Office of the Reserve Bank of India. Out of which, three inflows amounting to **₹25,02,67,680/-** were reported within stipulated period. However three inflows amounting to **₹63,92,503/-** were reported with the delay of 357 to 1594 days. Whereas, in terms of paragraph 9(1) (A) of Schedule 1 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 applicant allotted equity shares and filed FC-GPRs as stated below:

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May3, 2000 –Contravention detected:

(Table -2)

Sr. No.	Name of the Foreign Investor	No of shares issued	Amount of shares (₹)	Date of issue of shares	Date of submission of FC-GPR by company to AD	Date of submission of FC-GPR by AD to RBI	Days delay excluding Prescribed time of 30 days.
1	ACCEL India IV (Mauritius) Ltd	5460	247010400 (45240 per Share)	04/01/2016	29/01/2016	04/02/2016	No delay
2	Mr Jayesh Arvind Parekh	40	1809600 (45240 per Share)	04/01/2016	29/01/2016	20/02/2016	No delay
	Sub Total A	5500	248820000				
3	Mr Jayesh Arvind Parekh	137	605391 (4418.91 per Share)	17/10/2012	08/02/2017	12/06/2017	1546 Days delay
4	India Venture Partnership Ltd	1132	# 5002206 (4418.91 per Share)	17/10/2012	17/04/2013	17/04/2013	132 days delay
5	Sadeesh Raghwan	163	# 720282 (4418.91 per Share)	17/10/2012	17/04/2013	17/04/2013	132 days delay
6	Mr Nagendra Bandaru	32	1447680 (45240 per Share)	04/02/2016	17/08/2016	19/08/2016	165 days delay
	Sub Total B	1464	7775559				



	Grand Total (A +B)	6964	256595559				
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*For calculation of days of delay under 9(1)(B) reporting to AD is taken as reporting to RBI.

As per FC- GPRs submitted Company refunded ₹48,251/- and ₹16,373/- was waived by the Bank being exchange fluctuation.

4. As indicated in the table above, the applicant has filed six form FC-GPRs amounting to **₹25,65,95,559/-**. Out of which, two form FC-GPRs amounting to **₹24,88,20,000/-** were filed within stipulated period. However four form FC-GPRs amounting to **₹77,75,559/-** were filed with the delay ranging from 132 to 1546 days beyond the prescribed timeline of 30 days. Whereas, in terms of paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to the overseas investor.

5. Contravention under Para 8 of Schedule I of FEMA notification 20/2000- RB dated May 3, 2000. Contravention detected. (Table - 3)

Sr No.	Name of the Foreign Investor	No of Shares issued	Amount (₹)	Date of receipt of remittance	Date of Allotment	Days delay excluding Prescribed time of 180 days.
1	ACCEL India IV (Mauritius) Ltd	5460	247010400 (45240 per Share)	04/01/2016	09/12/2015	No delay
2	Mr Jayesh Arvind Parekh	40	1809600 (45240 per Share)	26/04/2016	14/12/2015	No delay
3	Mr Jayesh Arvind Parekh	137	605391 (4418.91 per Share)	17/10/2012	13/06/2012	No delay
4	India Venture Partnership Ltd	1132	#5002206 (4418.91 per Share)	17/10/2012	27/06/2012	No delay
5	Sadeesh Raghwan	163	720282 (4418.91 per Share)	17/10/2012	06/06/2012	No delay
6	Mr Nagendra Bandaru	32	1447680 (45240 per Share)	04/02/2016	19/01/2016	No delay
	Grand Total (A +B)	6964	256595559			

₹ 48,251/- excess funds received on 27.06.2012 was refunded without prior permission of RBI on 16.01.2013 with a delay of 23 days beyond stipulated 180 days.

6. The company has received total inflow of **₹25,66,60,183/-** in six tranches and issued shares for **₹25,65,95,559/-** within stipulated period of 180 days from the date



of inflow as indicated in Table – 3 above. However, the applicant company received excess amount of ₹64,624, wherein excess of ₹16373/- being exchange fluctuation was waived by RBI and the remaining excess amount ₹48,251/- which was received on 27.06.2012 was refunded on 16.01.2013 with a delay of 23 days beyond the stipulated period of 180 days without the prior approval of RBI. Whereas, in terms of Para 8 of Schedule 1 to Notification No. FEMA 20, 2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by A Person Resident outside India) (Third Amendment) Regulations, 2007 notified vide, Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Government of India. Further in terms of paragraph 5 of AP(Dir series) Circular No.20 dated December 14, 2007, in all cases where, as on November 28, 2007, 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through their AD Category-1 bank with a definite action plan weather for allotment of equity instruments or for refund of the advance, with full details, for specific approval. Thus the company stands to contravene the provisions stipulated in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000 and the amount of contravention is ₹48,251/- .

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.72/06.04.15(C77)/ 2017-18 dated July 7, 2017 for further submission in person and /or producing documents, if any, in support of the application. The applicant through its employee company secretary Ms. Charu Nagpal appeared for the personal hearing on July 12, 2017 during which Company Secretary Shri Jitendra R. Bhagat (Bhagat Associates, CS) represented the applicant. They admitted to the



contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was due to ignorance of rules and regulations on the part of the Company and they deeply regret for the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/order of the Compounding Authority in connection with their compounding application.

8. The representative 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.

9. I have given my careful consideration to the documents on record and submission 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 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards shares as detailed in paragraph 2 above. The contravention relates to ₹63,92,503/- with delay of approximately 357 to 1594 days beyond the stipulated time of 30 days.

(B) Paragraph 9(1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares to persons resident outside India as detailed in paragraph 3 above. The amount involved is ₹77,75,559/- and the delay is for approximately 132 to 1546 days .

(C) Paragraph 8 of Schedule I of FEMA Notification FEMA20/2000- RB dated May 3, 2000: Due to delay of 23 days beyond the stipulated period of 180 days in refund of excess amount of ₹48,251/- without the prior approval of RBI as per above paragraph.



10. 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 therefore, I consider that amount of penalty of **₹46,185/- (Rupees forty six thousand one hundred eight five only)** will meet the ends of justice.

11. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 8, 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹46,185/- (Rupees forty six thousand one hundred eight five only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 14th day of July, 2017.

Sd/-

(N Senthil Kumar)
General Manager