



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Devinder Kumar
Deputy General Manager

Date: September 6, 2017
CA No. 4429/2017

In the matter of

Elomatic-Pharmalab Consulting and Engineering Private Limited
Metropolitan, Plot-A/140, Road No. 23, Wagle Industrial Estate
Thane (W) – 400 604

(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

The applicant has filed a compounding application dated June 05, 2017 (received in the Reserve Bank of India on June 09, 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 by the company relate to (i) raising ECB under automatic route from its foreign joint venture holding company and (ii) submission of ECB-II returns (admitted vide email dated July 31, 2017), having thus contravened the eligibility and reporting requirements under paragraphs (1) (i) (a) and (1) (xii) of Schedule I to Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 notified



vide Notification No. FEMA 3/2000-RB dated 3rd May 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 3/2000-RB).

2. The relevant facts of the case are as follows: The applicant was incorporated as Elomatic-Pharmalab Consulting and Engineering Private Limited on October 27, 2004 under the Companies Act, 1956 (CIN U73100MH2004PTC149278). The applicant is engaged in the business of providing engineering services for the pharmaceutical industry which include consulting, designing, engineering and validation services. In the year 2007, the applicant raised ECB, under Automatic Route from its foreign joint venture holding company, totaling to Euro 72000 for a period of three years at the rate of interest of 5% in two installments of Euro 45000 and Euro 27000 on June 18, 2007 and October 10, 2007 respectively.

The details of the ECB raised by the applicant and the repayments thereof subsequently are as under:

Receipts				Repayments			
Sr. No.	Date	Amount in Euro	Amount in INR	Sr. No.	Date	Amount in Euro	Amount in INR
1.	18.06.2007	45,000	24,57,653	1.	22.05.2015	15,000	10,68,894
2.	10.10.2007	27,000	15,03,684	2.	19.05.2016	30,000	22,52,700
				3.	19.04.2017	27,000	18,76,908
TOTAL		72,000	39,61,337			72,000	51,98,502

Further, the details of the ECB-II returns submitted by the applicant with significant delays are tabulated below:

Submission of ECB-II Returns		
Sr. No.	Period of Submission	Date of Submission
1	Jun-07	28-Feb-09



2	Jul-07	28-Feb-09
3	Aug-07	28-Feb-09
4	Sep-07	28-Feb-09
5	Oct-07	28-Feb-09
6	Nov-07	28-Feb-09
7	Dec-07	28-Feb-09
8	Jan-08	28-Feb-09
9	Feb-08	28-Feb-09
10	Mar-08	28-Feb-09
11	Apr-08	28-Feb-09
12	May-08	28-Feb-09
13	Jun-08	28-Feb-09
14	Jul-08	28-Feb-09
15	Aug-08	28-Feb-09
16	Sep-08	28-Feb-09
17	Oct-08	28-Feb-09
18	Nov-08	28-Feb-09
19	Dec-08	28-Feb-09
20	Jan-09	28-Feb-09
21	Feb-09	8-Apr-09
22	Apr-09	1-Jun-09

3. The applicant has raised ECB under automatic route in contravention of paragraph (1) (i) (a) of Schedule I to Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 notified vide Notification No. FEMA 3/2000-RB as it did not meet the eligibility criteria for this purpose. Further, the applicant had submitted the ECB-II returns with substantial delays, thus contravening paragraph (1) (xii) also of the Regulations *ibid*.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO.CEFA.No./117/15.20.67/2017-18 dated July 06, 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 August 07, 2017 and Shri Prasad Panicker, VP-Finance and Taxation and Shri Tejas S. Tungare represented the applicant. The representatives of the applicant admitted the contraventions for which compounding has been sought and submitted that the lapses were inadvertent. They requested that a lenient view may be taken 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 and thereafter.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of paragraphs (1) (i) (a) and (1) (xii) of Schedule I to Notification No. FEMA 3/2000-RB. The amount and period of contravention is as under:

- (i) Paragraph (1) (i) (a) - The amount of contravention is ₹39,61,337/- and the period is nine year and ten months approximately.
- (ii) Paragraph (1) (xii) - As detailed in para 2 above.

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. After considering the submissions made by the applicant with regard to the contraventions and the entire facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which contraventions are to be compounded and I consider that payment of an amount of ₹1,33,877/- (Rupees one lakh thirty three thousand eight hundred seventy seven only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, the admitted contravention of paragraphs (1) (i) (a) and (1) (xii) of Schedule I to Notification No. FEMA 3/2000-RB by the applicant on



payment of an amount of ₹1,33,877/- (Rupees one lakh thirty three thousand eight hundred seventy seven only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed of accordingly.

Dated this the sixth day of September, 2017

Sd/-

(Devinder Kumar)
Deputy General Manager