



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: October 25, 2017  
C.A. HYD 223

In the matter of

M/s.Vizag Hospital & Cancer Research Private Limited  
1/7, MVP Colony  
Visakhapatnam- 530017  
Andhra Pradesh

**(Applicant)**

In exercise of the powers conferred under Section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made there under, I pass the following

**Order**

The applicant has filed the compounding application dated June 08, 2017 received on June 19, 2017 for compounding of contraventions of the provision of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) Delay in reporting receipt of foreign inward remittances towards subscription to equity (ii) Delay in submission of form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India (iii) neither the equity instruments were issued nor the money refunded to the foreign investor, a person resident outside India within 180 days of the receipt of inward remittance (iv) taking on record transfer of shares in the books of the company without filing form FCTRS, in terms of Paragraph 9(1)(A), Paragraph



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9(1)(B) Paragraph 8 and Regulation 4 respectively of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 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:

Vizag Hospital & Cancer Research Centre Private Limited (VHCRC), Vizag, was incorporated on March 05, 1986 under the Companies Act 1956 (CIN No. U85110AP1986PTC006235) with the objective of providing quality treatment of cancer and developing a cancer research centre. In the year 2005, M/s Janaki Hospitals Private Limited, Vizag got merged with VHCRC, vide court order dated 25.08.2006. During the years 2005-2007, Janaki hospitals had received investments through normal banking channels from six NRIs for issue of shares. Due to the merger, VHCRC had taken over the responsibility of issuing the shares VHCRC retained the moneys received in short term funds with the same AD Bank.

Meanwhile Shri A.K.V Jogi Naidu, a resident shareholder cum director of VHCRC, negotiated with the six NRIs to sell 101620 equity shares that he held in the company. The NRI investors authorized VHCRC to pay Shri A.K.V. Jogi Naidu from the funds held by VHCRC on their behalf. Accordingly, the sale consideration was paid and shares were transferred. The transfer was effected in the company's books on 29.10.2008 without filing FC-TRS as it somehow escaped the attention of the transferor. Shri A.K.V Jogi Naidu has already been compounded for this violation under FEMA vide our order CA HYD 189 dated March 03, 2017.

- a. The applicant received foreign inward remittances from foreign investors towards subscription to equity shares as detailed below:-



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S.No	Name of Remitter	Total Amount (₹)	Date of Receipt	Date of Reporting
1	P.Muralidhar Varma	19,71,782	22.06.2005	11.07.2005
2	Nagendra Myneni	7,69,429	23.06.2005	11.07.2005
3	Sankara rao Kothakota	26,02,724	27.06.2005	11.07.2005
4	Suresh V Doki	12,52,585	07.07.2005	11.07.2005
5	Suresh Kumar Kota	2,62,750	24.05.2006	13.04.2015
6	Sankar Rao Kothakota	23,15,500	14.07.2006	01.06.2009
7	Suresh Kumar Kota	5,04,350	18.07.2006	13.04.2015
8	Srinivasa Rao Voonna	9,03,924	24.07.2006	01.06.2009
9	Muralidhar V Penubothu	3,88,695	24.07.2006	01.06.2009
10	Nagendra Myneni	20,38,520	10.08.2006	01.06.2009
11	Suresh Doki	9,09,925	23.05.2007	01.06.2009
12	Suresh Kumar Kota	5,09,057	29.09.2008	01.06.2009



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13	Srinivasa Rao Voonna	5,00,000	23.10.2008	01.06.2009
14	Srinivasa Rao Voonna	15,00,000	27.10.2008	01.06.2009
15	Sankara rao Kothakota	1,33,86,684	06.02.2009	26.02.2009
16	Nagendra Myneni	12,39,912	18.02.2009	26.02.2009
17	Suresh Kota	5,15,884	13.03.2009	13.04.2015
18	Nagendra Myneni	20,16,856	08.04.2009	13.04.2015
19	Suresh Kota or Aravapalli Bhagya Lakshmi	10,02,058	22.04.2009	28.04.2009
20	Srinivasa Rao Voonna	5,50,813	28.04.2009	11.05.2009
21	Kota Suresh Kumar	10,00,000	20.08.2009	06.10.2017
22	Srinivasa Rao Voonna	15,02,714	21.10.2010	16.11.2010
23	Nagendra Myneni	14,19,173	27.10.2010	16.11.2010
24	Suresh kota Aravapalli Bhagya Lakshmi	8,83,254	10.11.2010	16.11.2010
25	Suresh Kota	2,61,989	21.12.2011	20.01.2012



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26	Srinivasa Rao Voonna	5,00,000	09.01.2012	13.04.2015
27	Srinivasa Rao Voonna	27,03,183	24.04.2012	27.04.2012
28	Nagendra Myneni	15,49,385	06.08.2012	30.08.2012
29	Suresh Kumar Kota	14,93,477	03.09.2012	21.09.2012
30	Sankara Rao Kothakota	13,27,772	05.02.2013	01.03.2013
31	Radhika Rao Naidu	10,00,000	07.03.2013	17.04.2017
32	Nagendra Myneni	20,35,314	13.03.2013	16.04.2013
33	Radhika Rao Naidu	8,00,000	13.03.2013	17.04.2017
34	Radhika Rao Naidu	2,03,000	14.03.2013	17.04.2017
35	Sankara Rao Kothakota	27,13,012	03.04.2013	02.05.2013
36	Sankara Rao Kothakota	13,04,257	28.05.2013	01.06.2013
	<b>Total</b>	<b>5,58,37,978</b>		

The applicant reported receipt of remittances towards share subscription amounting to ₹ 5,58,37,978/- to the Regional Office of Reserve Bank of India on dates indicated



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as above out of which remittances amounting to ₹ 1,79,03,775/- have been reported with a delay ranging from 4 days to 8 years 9 months 18 days approximately .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.

b. The company allotted equity shares and filed form FC-GPRs as indicated below:

Sr No.	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount (₹)	Date of reporting
1	Voonna Srinivasa Rao	09.01.2009	7,595	21,72,170	28.04.2009
	Dr. Nagendra Myneni		7,507	21,47,002	
	Sankara Rao Kothakota		16,523	47,25,578	
	Suresh Doki		7,561	21,62,446	
	Penubothu Muralidhar Varma		8,253	23,60,358	
	Dr. Suresh Kumar Kota		4,455	12,74,130	
2	Voonna Srinivasa Rao	16.03.2009	400	1,14,400	24.08.2015
3	Voonna Srinivasa Rao	07.09.2009	4,085	11,68,310	24.08.2015
	Dr. Nagendra Myneni		13,698	39,17,628	



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	Sankara Rao Kothakota		47,480	1,35,79,280	
	Dr. Suresh Kumar Kota		8,806	25,18,516	
4	Voonna Srinivasa Rao	26.03.2011	5,254	15,02,644	24.08.2015
	Dr. Nagendra Myneni		4,962	14,19,132	
	Dr. Suresh Kumar Kota		3,088	8,83,168	
5	Voonna Srinivasa Rao	30.03.2012	1,748	4,99,928	24.08.2015
	Dr. Suresh Kumar Kota		916	2,61,976	
6	Voonna Srinivasa Rao	03.10.2012	6,593	27,03,130	17.04.2013
7	Dr. Nagendra Myneni	16.02.2013	3,779	15,49,390	17.04.2013
	Dr.Sankara Rao Kothakota (JT) with rama kothakota		3,238	13,27,580	
	Dr. Suresh Kumar Kota		3,643	14,93,630	
8	Dr. Nagendra Myneni	30.03.2013	4,964	20,35,240	26.08.2013



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	Muralidhara Varma Penubothu		4,885	20,02,850	
9	Dr.Sankara Rao Kothakota	05.06.2013	9,798	40,17,180	26.08.2013
	<b>Total</b>		<b>1,79,231</b>	<b>5,58,35,666</b>	

Applicant filed form FC-GPRs for the allotment of shares amounting to ₹ 5,58,35,666/- as indicated above with delays ranging from 1 month 2 days to 6 years 4 months 9 days approximately beyond the prescribed limit. 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 Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to persons resident outside India :-

- c. The company delayed in allotment of shares beyond the stipulated period of 180 days from the date of receipt of inward remittances as indicated below:

Sr No.	Name of the investor	Date of receipt of funds	Amount (₹)	Date of issue of shares
1	Voonna Srinivasa Rao	24.07.2006	9,03,924	09.01.2009
		27.10.2008	15,00,000	07.09.2009
2	Dr.Nagendra Myneni	23.06.2005	7,69,429	09.01.2009
		10.08.2006	20,38,520	07.09.2009
		17.02.2009	12,39,912	07.09.2009
		06.08.2012	15,49,385	16.02.2013





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3	Sankara Rao Kothakota	27.06.2005	26,02,724	09.01.2009
		14.07.2006	23,15,500	07.09.2009
		06.02.2009	1,33,86,684	07.09.2009
4	Suresh Doki	07.07.2005	12,52,585	09.01.2009
		23.05.2009	9,09,925	09.01.2009
5	Penubothu Muralidhar Varma	22.06.2005	19,71,782	09.01.2009
		24.07.2006	3,88,695	
6	Dr.Suresh Kumar Kota	24.05.2006	2,62,750	09.01.2009
		<b>Total</b>	<b>3,15,96,165</b>	

Shares amounting to ₹.3,15,96,165/- were allotted with delays ranging from 11 days to 1 year 9 months 10 days. Whereas in terms of Paragraph 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 outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated November 13, 2007 in the official Gazette of the Govt. of India.

- d. The company has taken on record transfer of shares without filing and obtaining certified copy of FC-TRS as per following details:



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SI No.	Name of transferor	Date of taking transfer of shares on record	Value of shares transferred (₹)	Date of filing form FC-TRS
1	Dr. Srinivasa Rao Vonna	29.10.2008	40,02,284	18.12.2015
2	Dr. Nagendra Myneni		37,52,034	
3	Dr. Sankara Rao Kothakota		82,56,820	
4	Suresh Doki		39,75,686	
5	Muralidhara V Penubothu		68,50,272	
6	Suresh Kumar Kota		22,26,224	
	<b>Total</b>		<b>2,90,63,320</b>	

The company took the transfer of the above shares on record without filing form FC-TRS to the AD bank thereby contravening Regulation 4 of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/RB-2000 dated May 3, 2000 as amended from time to time. The period of contravention is 7 years 1 month 20 days approximately.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/709/14.66.003/2017-18 dated October 24, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b). The applicant appeared for personal hearing on October 25, 2017 during which Dr. Muralidhar Vonna, Managing Director, and Shri A.K.V. Jogi Naidu, Whole time Director, represented the applicant. The authorized representatives of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing, it was submitted that the delay was due to ignorance of FEMA Regulations but was not wilful or with malafide intention. In view of the foregoing, the



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representative of the applicant requested to take a lenient view 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 the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. 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 FEMA Notification No. FEMA 20/2000-RB for delay in submission of Advance Reporting Form to Reserve Bank of India after receipt of inward remittance from a person resident outside India and the contravention relates to an amount of ₹1,79,03,775/- with delays ranging from 4 days to 8 years 9 months 18 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to FEMA Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of ₹5,58,35,666 /- with delays ranging from of 1 month 2 days to 6 years 4 months 9 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 for delays in allotment of shares to persons resident outside India and the contravention relates to an amount of ₹3,15,96,165/-with delays ranging from 11 days to 1 year 9 months 10 days approximately.

(d) Regulation 4 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000 for effecting transfer of shares in the books of the company without filing form FC-TRS and the contravention relates to an amount of ₹ 2,90,63,320/- with a delay of 7 years 1 month 20 days approximately.



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5. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty upto 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 contravention is to be compounded and I consider that an amount of ₹.8,42,454/- (Rupees Eight Lakhs Forty Two Thousand Four Hundred Fifty Four Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions Paragraph 9(1)(A), Paragraph 9 (1) (B), Paragraph 8 and Regulation 4 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 ₹8,42,454/- (Rupees Eight Lakhs Forty Two Thousand Four Hundred Fifty Four Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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, Rule10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this 25<sup>th</sup> day of October 2017

Sd/-

(R. Subramanian)  
Regional Director