



In the
Reserve Bank of India
Foreign Exchange Department
5th Floor, Amar Building
Fort, Mumbai-400 001

Present
Arvind Kumar Dohare
Assistant General Manager
Date: November 8, 2017
CA No.4431/2017

In the matter of
Lupin Limited
Laxmi Towers, "B" 5th Floor
Bandra Kurla Complex,
Mumbai 400 051

(The Applicant)

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

Order

The applicant filed a compounding application dated June 07, 2017 (received at the Reserve Bank of India on June 09, 2017) for compounding of the contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA or Act) and the Regulations issued there under. The contraventions sought to be compounded is for an investment undertaken by the IInd level Step down subsidiary (wholly owned subsidiary) of Indian Party in the subsidiary in India for acquiring the shares thereof. This is in contravention of Regulation 6(2)(ii) of the Foreign Exchange Management (Transfer or issue of any Foreign Security) Regulations, 2000 notified vide Notification No. FEMA.120/RB-2004 dated July 07, 2004 and as amended from time to time (herein after referred to as the Notification No. FEMA120/RB-2004).

2. The relevant facts of the case are as follows:

The applicant company "Lupin Limited" is a pharmaceutical Indian company which was incorporated on March 01, 1983 in the name of Lupin Chemicals Ltd under the companies



Act, 1956 and its registered office was at Kalpatru Inspire, Off Western Express Highway, Santacruz (East), Mumbai-400 055. Its name was changed to Lupin Ltd on August 2, 2015. The Lupin Ltd is engaged in the business of Chemicals, Pharmaceuticals, medicine etc; and has 100% owned overseas entity in Switzerland named as “Lupin Atlantis Holdings SA,” (LAHSA) and the UIN BYWAZ 20130897 was allotted to it under automatic route. This has further undertaken ODI in USA namely “Lupin Inc, USA and the same is treated as 1st level step down subsidiary of Indian Party.

In the instant case, the 1st level SDS had entered into an agreement with Gavis Group Companies for buying their three companies for USD 1820 (including their subsidiaries in India and USA) on February 29, 2016 which consists of 1) VGS Holdings Inc; USA, 2)Gavis Pharmaceuticals LLC USA and 3) Novel Laboratories Inc, USA. These overseas entities were treated as 2nd level Step down subsidiary of Indian Party. The 2nd level SDS “Novel Laboratories Inc; USA has its subsidiary in India in the name of Novel Clinical Research India Pvt Ltd and holds 99.99% Stake thereof. In terms of agreement dated February 29, 2016, Lupin Inc USA had paid USD 1820 for acquisition of above three companies of Gavis Group including their subsidiary in India and USA. The acquisition of the subsidiary in India is not in Line with regulation 6(2)(ii) Notification No. FEMA 120 /RB-2004 dated July 7, 2004.

Further, As per advice of RBI vide letter dated November 17,2016, the Indian Party has regularised the transaction by way of divesting FDI made in Novel Clinical Research India Pvt Ltd to Lupin Ltd, India and the same was reported to RBI on February 16, 2017. Now The Novel Clinical Research India Pvt Ltd is the subsidiary in India of Indian Party.

3. The applicant was given an opportunity for personal hearing vide letter FED.CO.CEFA.No.10380/19.62.077/2016-17 dated April 18, 2017 for further submission in person and or producing documents, if any, in support of the application. Accordingly, the date of hearing was fixed on October 17, 2017. However, a representative of the applicant Shri Suresh Chettiar, Vice President – Finance and Shri Jignesh Purohit Manager Treasury of the company for personal hearing was present on the date. During personal hearing, the representative of the applicant admitted the contraventions committed by the Indian Party for which the Indian Party sought the compounding. The application for compounding has, therefore been considered on the basis of averments made in the application as well as the submission made in this context during the personal hearing.

4. In view of the above, acquiring shares of an subsidiary in India by the overseas entity in USA of Indian Party is in the contravention of Regulation 6(2)(ii) of Notification No. FEMA



120 /RB-2004 dated July 7, 2004. The amount of contravention is USD 1820 (INR1, 22,062/-) and the period of contravention includes two years approximately.

5. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 6(2)(ii) of Notification No. FEMA 120 of RB-2004 dated July 7, 2004 as amended from time to time.

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, after considering the relevant facts and the 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 payment of an amount of Rs.50,610/-(Rupees Fifty thousand six hundred ten only) meets the ends of justice.

7. Accordingly, I compound the admitted contravention committed by the applicant namely: contravention of Regulations 6(2) (ii) of Foreign Exchange Management (Transfer or issue of any Foreign Security) Regulations, 2000 notified vide Notification No. FEMA 120/RB-2004 dated July 7, 2004 on the facts discussed above in terms of Foreign Exchange (compounding Proceeding) Rules, 2000, on payment of the amount of Rs.50, 610/- (Rupees. Fifty thousand six hundred ten only) which shall be deposited by the applicant with Reserve Bank of India, Foreign Exchange Department, 5th floor, Amar Building, Fort Mumbai 400 001 by way of a demand draft drawn in favour of "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 November 8, 2017

Sd/-

(Arvind Kumar Dohare)
Assistant General Manager