



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

R Kesavan
Chief General Manager

Date : November 30, 2017
C.A.699/2017

In the matter of

M/s. Aspen Care Pvt Ltd.,
Old No.2, New No. 24, Southmada Street,
Sri Nagar Colony, Saidapet,
Chennai- 600015
(Applicant)

In exercise of the powers 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 July 25, 2017 (received at Reserve Bank on August 02, 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 in reporting of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (iii) delay in refund of excess inward remittance received in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 8 respectively, of Schedule I 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).

2. The relevant facts of the case are as follows: The applicant company was incorporated on November 22, 2013 under the provisions of the Companies Act, 1956 (Registration No. U74900TN2013PTC093831) and is engaged in business of electric power generation using solar energy. The applicant received foreign inward remittances from University of Pasedena, USA towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No	Amount of Foreign Inward Remittance (in Rs.)	Date of receipt	Reported to RBI on
1	4,77,50,988.00	03.11.2014	15.12.2014
2	5,73,15,284.00	30.01.2015	27.02.2015
3	1,34,39,328.00	08.03.2016	22.06.2016
4	1,98,59,338.00	13.04.2016	22.06.2016
5	1,34,05,330.00	03.06.2016	22.06.2016
6	67,23,328.00	08.07.2016	26.07.2016
7	3,05,00,322.00	20.12.2016	27.12.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 12 days to two months 14 days approximately beyond the stipulated time of 30 days in respect of the remittances at Sl. Nos.1, 3 and 4. Whereas, in terms of paragraph 9 (1) A of Schedule I 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 company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of shares/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	10506626	10	10,50,66,260	25.02.2015	19.03.2015
2	3329865	10	3,32,98,650	27.06.2016	26.07.2016
3	2012865	10	2,01,28,650	04.10.2016	19.10.2016
4	3000000	10	3,00,00,000	31.03.2017	07.07.2017

The applicant filed the form FC-GPR as indicated above with delay of two months seven days approximately beyond the stipulated time of 30 days in respect of the allotment at Sl. No.4. Whereas in terms of paragraph 9 (1) B of Schedule I 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 person resident outside India.

4. The company allotted 3000000 shares of ₹10/- each on 31.03.2017 against the remittance received on 20.12.2016 and refunded the balance amount as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	20.12.2016	5,00,322.00	30.10.2017

The company refunded the amount with delay of four months 10 days approximately beyond the prescribed period of 180 days with prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated November 27, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant did not appear for the personal hearing on November 30, 2017. The application for compounding is, therefore,



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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.

6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 8,10,49,654/- with duration of contravention ranging from 12 days to two months 14 days approximately;
- (b) Paragraph 9 (1) B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India. The contravention relates to an amount of ₹ 3,00,00,000/- with the duration of contravention being two months seven days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in refund of excess inward remittance with prior approval of Reserve Bank. The contravention relates to an amount of ₹ 5,00,322/- with the duration of contravention being four months 10 days approximately.

7. 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 ₹ 1,04,752/- (Rupees one lakh four thousand seven hundred and fifty two only) will meet the ends of justice.



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8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 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 ₹ **1,04,752/-** (Rupees one lakh four thousand seven hundred and fifty two only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 Thirtieth day of November, 2017.

Sd/-

R Kesavan
Chief General Manager