



In the  
**Reserve Bank of India**  
**Foreign Exchange Department**  
**Mumbai Regional Office**  
**Main Building, 3rd floor**  
**Shahid Bhagat Singh Marg, Fort**  
**Mumbai 400 001**

**Present**  
**Shri Sunil Pethkar**  
**Assistant General Manager**

**August 22, 2019**

**CA No. MUM 887/2019**

In the matter of  
**M/s Sunvest Energy Private Limited**  
B-608, Crystal Plaza,  
New Link Road, Andheri (W),  
Mumbai - 400 053

**(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 thereunder, I pass the following

**Order**

- 1 The applicant has filed the compounding application dated April 22, 2019, received at the Reserve Bank on April 23, 2019, for compounding of contravention/s of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are in respect of the following Regulations/ paras under 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 May 3, 2000 as amended from time to time (hereinafter referred to as FEMA 20) and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2017, notified vide Notification No FEMA 20R/2017 RB dated November 07, 2017, as amended from time to time (hereinafter referred to as FEMA 20R):



- I Para 9 (1) (A) of FEMA 20: Delay in reporting receipt of foreign inward remittance towards subscription to equity
- II Para 9 (2) of FEMA 20 read with Regulation 13.1 (3) of FEMA 20R: Delay in filing 'Annual Return on Foreign Liabilities and Assets' (FLA Returns).
- 2 Brief facts of the applicant company are as follows:

<b>Date of Incorporation</b>	March 26, 2015
<b>Its main activities are:</b>	Electric power generation using solar energy

- 3 The applicant received foreign inward remittance from non-resident investor towards equity shares / compulsorily convertible preference shares/ compulsorily convertible debentures and it reported the same to the Reserve Bank on dates as indicated below.

<b><u>Delay in reporting Foreign Direct Investment &amp;/or Delay in allotting the shares/ refunding the amount</u></b>						
<b><u>(whereas, "Y" represents delay in number of years, "M" represents delay in number of months and "D" represents delay in number of days, and LSF stands for : Late Submission Fees</u></b>						
<b>S No/ LSF</b>	<b>Date of inward remittance (DD-MM-YY)</b>	<b>Amount received (in INR)</b>	<b>Date of reporting to RBI (DD-MM-YY)</b>	<b>Para 9 (1) A delay</b>	<b>Date of allotment / refund (DD-MM-YY)</b>	<b>Para 8 delay</b>
1	04-03-17	6,428.00	08-04-17	0Y 0M 4D	16-03-17	0
	<b>TOTAL</b>	<b>6,428.00</b>				

The applicant reported receipt of remittance to the Reserve Bank of India on date indicated above with a delay of 0Y 0M 4D beyond the stipulated time of 30 days. Whereas, in terms of Para 9 (1) (A) of FEMA 20, 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.

- 4 The company has not filed/delayed in filing the Annual Return on Foreign Liabilities and Assets (FLA return) to the Reserve Bank of India for the Financial Years 2016-17 and 2017-18. Whereas, in terms of Paragraph 9(2) of Schedule 1 to Notification No. FEMA 20 and Regulation 13.1 (3) of Notification No. FEMA 20(R), all Indian companies which have received Foreign Direct Investment in the previous years including the current year, shall submit to the Reserve Bank of India, on or before the due date (as applicable) each year, a report titled 'Annual Return on Foreign Liabilities and Assets' as specified by the Reserve Bank from time to time.



- 5 The applicant was given an opportunity for personal hearing, for further submission in person and/or for producing documents, if any, in support of the application vide e-mail dated August 01, 2019. The applicant applied for waiver of personal hearing vide e-mail dated August 01, 2019. The applicant, in the compounding application, had admitted the contraventions as stated above for which compounding has been sought. It had been submitted that the contraventions were not wilful and were unintentional. 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.
- 6 I have given my careful consideration to the documents on record and thereafter. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:
- I Para 9 (1) (A) of FEMA 20, due to the delay in reporting of receipt of foreign inward remittance towards subscription towards shares as detailed above. The contravention relates to total amount of Rs.6,428 (Rupees Six Thousand Four Hundred Twenty Eight and Zero Paise Only) with a delay of 0Y 0M 4D approximately.
- II Para 9 (2) of FEMA 20 read with Regulation 13.1 (3) of FEMA 20R, due to non-filing/delay in filing of Annual Return on Foreign Liabilities and Assets for the Financial Years 2016-17 and 2017-18.
- 7 It has been declared in the compounding application dated April 22, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has also been declared in a declaration attached to the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.
- 8 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 Rs.19,311 (Rupees Nineteen Thousand Three Hundred Eleven and Zero Paise Only) will meet the ends of justice.



- 9 Accordingly, I compound the admitted contravention/s namely, the contravention/s of Para 9 (1) (A) of FEMA 20 and Para 9 (2) of FEMA 20 read with Regulation 13.1 (3) of FEMA 20R, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 19,311 (Rupees Nineteen Thousand Three Hundred Eleven and Zero Paise Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, 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.
- 10 The above order is passed only in respect of contraventions of Para 9 (1) (A) of FEMA 20 and Para 9 (2) of FEMA 20 read with Regulation 13.1 (3) of FEMA 20R and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.
- 11 The application is disposed of accordingly.  
dated: August 22, 2019

**Compounding Authority**

**(Sunil Pethkar)**  
**Assistant General Manager**