



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
6, Sansad Marg
New Delhi-110001

Present
Md. Shakir Hasan
Assistant General Manager

Date: July 31, 2019
CA No. NDL 422/2019

In the matter of
GMR Tenaga Operations and Maintenance Private Limited
UG 71, Som Dutt, Chamber-II 9, Bhikaji Cama Place, South West Delhi
Delhi-110066
(Applicant)

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

ORDER

The applicant has filed the compounding application dated April 9, 2019 (received at Reserve Bank of India, New Delhi on April 15, 2019) for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded is that of delay in issue of shares, in terms of paragraph 2(2) of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notified vide Notification No. FEMA 20(R)/2017-RB dated November 7, 2017 (hereinafter referred to as FEMA 20(R)/2017-RB), as amended from time to time.

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

(a) The applicant company, incorporated on April 9, 2018, is engaged in the business of construction and maintenance of power plants.



(b) The applicant had received inward remittance amounting to ₹2,50,000/- on June 6, 2018 from its foreign investor, M/s TNB Repair and Maintenance Sdn. Bhd., Malaysia and allotted 25,000 equity shares against it on October 31, 2018 with a delay of 2 months and 26 days beyond the prescribed period, in contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable. Whereas, in terms of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

(c) Thus, there is a contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable.

3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Rajeev Kumar, Head-Secretarial, GMR Group and Ms. Nidhi Chandhok, Associate Manager-Secretarial, GMR Group, appeared for personal hearing on July 30, 2019 on behalf of the applicant. The representatives of the applicant admitted the contravention committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that contravention was without any *malafide* or wilful intention but were mainly due to non-availability of Directors. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. 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 paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable, on account of delay in issue of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹2,50,000/- (Rupees Two Lakh and Fifty Thousand only) and the period of delay is 2 months and 26 days.



5. It has been declared in the compounding application dated April 9, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has also been declared in the declaration furnished with 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, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA. Accordingly, the above contravention which is being compounded in this Order is 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.

6. In terms of Section 13 of 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 and the entire facts and circumstances of the case I am persuaded to compound the contravention, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹51,250/- (Rupees Fifty One Thousand Two Hundred and Fifty only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contravention of paragraph 2(2) of Schedule 1 to FEMA 20(R)/2017-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹51,250/- (Rupees Fifty One Thousand Two Hundred and Fifty only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi-110001 by a demand draft drawn in favour of the “Reserve Bank of



India” and payable at New Delhi 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 accordingly.

Dated this the 31st day of July 2019.

Sd/-
(Md. Shakir Hasan)
Assistant General Manager