



In the

Reserve Bank of India  
Foreign Exchange Department  
3<sup>rd</sup> Floor  
15, Netaji Subhas Road  
Kolkata – 700 001

Present

**H. Thangzaman**  
**Chief General Manager**

Date: August 28, 2019  
C.A.112/2019

In the matter of

**CAPTIVA ENERGY SOLUTIONS PRIVATE LIMITED**  
57B, Hindustan Park, P.S-Gariahat  
Kolkata, W.B 700029  
(Applicant)

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

**Order**

The applicant had filed a compounding application dated June 26, 2019 (received at Reserve Bank on July 09, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded is for allotment of shares prior to the receipt of inflow to a person resident outside India in terms of Paragraph 2 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(R) dated November 07, 2017 (herein after referred to as Notification No.FEMA20(R)).

2. The relevant facts of the case are as follows. The applicant, CAPTIVA ENERGY SOLUTIONS PRIVATE LIMITED, was incorporated under Companies Act on July 02, 2010 and is in the business of Manufacture of power generators (except battery charging alternators for internal combustion engines), {NIC-2008: 27101}

3. The company had received one foreign inward remittances towards subscription to equity shares from a foreign investor, M/s Pramac Iberica SAU (Spain) as given in Table 1 below:

S. No.	Name of Investor	Inflow (INR)	Date of inflow	Date of allotment of shares	Amount for which shares issued (INR)	Excess Amount (INR)	Date of refund	Issue of shares Prior to receipt of inflow (Days)
1	M/s Pramac Iberica SAU (Spain)	14,29,71,135.64	11-Feb-19	01-Feb-19	14,26,59,129	3,12,006.64	N.A	10

The company had received the inflow on February 11, 2019 but allotted shares on February 01, 2019 i.e. 10 days prior to the receipt of inflow which is a contravention in terms of paragraph 2 of Schedule 1 to Notification No. FEMA 20(R).

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.281/06.01.002/2018-19 dated August 20, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Mr. Abhijeet Jain (Authorized Representative), appeared for personal hearing on August 28, 2019. The representative of the applicant admitted the contraventions as stated in para 3 of this Order.



5. It has been declared in the compounding application dated June 26, 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 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/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.

6. I have given 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 provisions of paragraph 2 of Schedule 1 to Notification No. FEMA 20(R) dated November 7, 2017. The contravention relates to an amount of INR 14,26,59,129.

7. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto thrice the sum of the contravention upon adjudication. However, considering the circumstances which led to the delay and other relevant facts of the case I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of Rs. 7,63,296 (Rupees Seven Lakh Sixty Three Thousand Two Hundred and Ninety Six only) will meet the end of justice.

8. Accordingly, I compound the admitted contravention viz. Paragraph 2 of Schedule 1 to Notification No. FEMA 20(R) dated November 7, 2017 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount Rs. 7,63,296



(Rupees Seven Lakh Sixty Three Thousand Two Hundred and Ninety Six only) which is to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceeding) Rules, 2000 dated May 03, 2000 shall apply.

9. The application is disposed off accordingly.

Dated this Twenty Eighth day of August, Two Thousand and Nineteen.

(H. Thangzaman)  
Chief General Manager

