



In the

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

Present

Eugene E Karthak
Regional Director for Delhi and CGM, New Delhi

Date: December 19, 2018

C.A.NDL 300/2018

In the matter of

New Northeast Electric India Private Limited
R-40, First Floor, South Extension Part II, New Delhi 110049
(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 August 9, 2018 (received at Reserve Bank of India, New Delhi on August 16, 2018) 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 contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittances received for issue of shares, and (ii) delay in filing Form FC-GPR after issue of shares, in terms of Paragraphs 9(1)(A) and 9(1)(B) respectively 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 20/2000-RB dated May 3, 2000, as amended from time to time (hereinafter referred to as FEMA 20/2000-RB).

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

a) The applicant company was incorporated on July 2, 2015 and is engaged in manufacturing of electric power distribution transformers, arc-welding transformers,



transmission and distribution voltage regulators.

b) The company had received five remittances for allotment of shares from September 30, 2016 to June 28, 2017 and reported them with a delay ranging from 28 days to 7 months and 24 days beyond the prescribed period (as detailed hereunder) in contravention of Para 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

S. No.	Amount (in INR)	Date of receipt	Date of reporting
1.	1,45,44,416.40	30.09.2016	23.06.2017
2.	27,63,79,616.40	30.09.2016	23.06.2017
3.	3,31,23,274.21	07.03.2017	03.07.2017
4.	62,93,77,660.99	07.03.2017	03.07.2017
5.	63,71,00,000.00	28.06.2017	25.08.2017
	1,59,05,24,968.00		

Whereas, in terms of Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to Reserve Bank of India, as per the prescribed procedure, not later than 30 days from the date of receipt of the amount of consideration.

c) The company had allotted shares on three occasions against these remittances and reported them with delay ranging from 2 months and 11 days to 11 months and 5 days (as detailed hereunder) beyond the prescribed period in contravention of Paragraph 9(1)(B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable.

S. No.	Amount (in INR)	No. of shares	Date of allotment of shares	Date of reporting of FCGPR
1.	29,09,24,040.00	29092404	25.11.2016	30.11.2017
2.	66,25,00,930.00	66250093	03.05.2017	30.11.2017
3.	63,71,00,000.00	63710000	22.08.2017	02.12.2017
	1,59,05,24,970.00			

Whereas, in terms of Paragraph 9(1)(B) of Schedule 1 to 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 a person resident outside India.

d) Thus, there are contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA Notification No. 20 /2000-RB dated May 3, 2000, 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 Jasobanta Biswal and Shri Sunil Trehan, both Chartered Accountant, appeared for personal hearing on December 14, 2018 on behalf of the applicant. The representatives of the applicant admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing they submitted that delays were without any *malafide* or wilful intention but were due to change of consultants, misplacement of the FIRC issued by the AD bank which was sent to the old address of the registered office of the company and 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 following FEMA provisions:

a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, due to delay in reporting of foreign inward remittance received towards subscription of shares as detailed in paragraph 2(b) above. The contravention relates to an amount of ₹1,59,05,24,968/- (Rupees One Hundred Fifty Nine Crore Five Lakh Twenty Four Thousand Nine Hundred Sixty Eight only) and the period of delay ranges from 28 days to 7 months and 24 days.

b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, due to delay in filing of Form FC-GPR with the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 2(c) above. The contravention relates to an amount of ₹1,59,05,24,970/- (Rupees One Hundred Fifty Nine Crore Five Lakh Twenty Four Thousand Nine Hundred Seventy only) and the period of delay ranges from 2 months and 11 days to 11 months and 5 days.

5. It has been declared in the compounding application dated August 9, 2018 that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking dated August 9, 2018 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, 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. 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 **₹3,41,000/- (Rupees Three Lakh Forty One Thousand only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions of paragraph 9(1)(A) and 9(1)(B) of Schedule 1 to FEMA 20/2000-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 **₹3,41,000/- (Rupees Three Lakh Forty One Thousand 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 19th day of December 2018.

Sd/-

(Eugene E Karthak)
Regional Director for Delhi and CGM, New Delhi