



In the
Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Shri Jose J Kattoor
Regional Director, Karnataka and
Chief General Manager, Bengaluru

Date: April 26, 2019
C.A. BGL 352/2018

In the matter of

M/s Dytech Power Solutions (India) Private Limited
No 32/2, 2nd Floor, MCC Towers
Opp to Sigma Soft Tech Park
Whitefield Main Road, Ramagondanahalli
Bengaluru - 560066
(Applicant)

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

Order

The applicant has filed a compounding application dated December 10, 2018, received at the office of Reserve Bank of India, Bengaluru, on December 12, 2018, 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 receipt of foreign inward remittances towards subscription to equity, and (ii) delay in submission of form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of Paragraphs 9(1)(A) and 9(1)(B), 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 03, 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, M/s Dytech Power Solutions (India) Private Limited, was incorporated on November 27,



2013, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Deputy Registrar of Companies, Karnataka. The activity undertaken by the company is Manufacturing and Trading in energy saving devices. The applicant had received funds towards share application money from the foreign investors, namely, Mr. Waqas Suleiman Mohammed Al Adawi, Oman, M/s. Dytech Energy Holding (Mauritius), Mauritius, and M/s. Dytech Energy Pte Limited, Singapore, as shown below:

Table -1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to RBI / AD Bank
1	21-03-2014	50,040.70	26-04-2014
2	21-03-2014	15,07,250.00	26-04-2014
3	22-05-2014	23,60,000.00	19-06-2014
4	25-06-2014	23,77,200.00	21-07-2014
5	02-07-2014	35,43,600.00	13-08-2014
6	02-09-2014	29,84,500.00	16-10-2014
7	16-01-2015	36,74,640.00	31-01-2015
8	06-04-2015	49,05,600.00	16-04-2015
9	10-03-2017	1,57,78,780.00	13-04-2017
	Total	3,71,81,610.70	

The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from four days to fourteen days, beyond the stipulated time of 30 days in respect of the remittances indicated at serial numbers 1, 2, 5, 6 and 9, in the Table 1 above. 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 had allotted shares and filed form FC-GPRs with Reserve Bank/AD Bank as indicated below:



Table-2

Sl. No.	Date of Allotment	Number of shares allotted	Amount (INR)	Date of reporting to RBI/AD Bank
1	16-05-2014	5000	50,000.00	18-06-2014
2	16-05-2014	150725	15,07,250.00	21-06-2014
3	22-05-2014	236000	23,60,000.00	02-07-2014
4	25-06-2014	237720	23,77,200.00	23-07-2014
5	02-07-2014	354360	35,43,600.00	13-08-2014
6	03-09-2014	298450	29,84,500.00	11-11-2014
7	17-01-2015	367464	36,74,640.00	16-02-2015
8	06-04-2015	490560	49,05,600.00	07-05-2015
9	27-03-2017	1577878	157,78,780.00	24-04-2017
	Total	3718157	371,81,570.00	

The applicant filed form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from one day to one month and eight days, beyond the prescribed period of 30 days, in respect of the allotments as indicated at serial numbers 1, 2, 3, 5, 6 and 8, in the Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA. 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations, has to submit to Reserve Bank of India, a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No. 4757/22.08.938/2018-19 dated April 23, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Ms. Sony Gopinathan, Consultant, and Mr. Jaya Prakash, Consultant, who appeared for the personal hearing on April 25, 2019, admitted the contraventions as stated in paragraphs 2 and 3 above, committed by the applicant, for which compounding has been sought. During the personal hearing, the representatives of the



applicant requested that as the contraventions were not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 during personal hearing and thereafter.

5. I have given my 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 the following FEMA provisions issued in terms of:

(a) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹2,38,64,170.70**, and the period of delay ranges from four days to fourteen days; and

(b) Paragraph 9(1)(B) of Schedule I 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 as detailed in paragraph 3 above. The contravention relates to an amount of **₹1,53,50,950.00**, and the period of delay ranges from one day to one month and eight days.

6. It has been declared in the compounding application dated December 10, 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, 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.

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 **₹26,345.00 (Rupees Twenty Six Thousand Three Hundred and Forty Five only)**, will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A) and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant, based on the facts discussed above, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹26,345.00 (Rupees Twenty Six Thousand Three Hundred and Forty Five only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru, 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, the Twenty Sixth day of April 2019.

Sd/-

(Jose J Kattoor)
Regional Director, Karnataka and
Chief General Manager, Bengaluru