



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Ajay Kumar Misra
Chief General Manager

Date: April 30, 2019
CA No 4884 / 2019

In the matter of

Kiran Energy Solar Power Private Limited
Hinduja House 171
Dr. Annie Besant Road
Worli, Mumbai - 400018

(Applicant)

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

Order

The applicant has filed the application dated February 01, 2019 (received in the Reserve Bank on February 04, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought to be compounded for (i) delay in reporting the receipt of inward remittance beyond the stipulated time period and (ii) delay in reporting of downstream investment to the designated agencies beyond 30 days of such investment, in contravention of Regulation 5(1) read with paragraph 9(1)(A) of Schedule I and Regulation 14(6)(ii)(a) of 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 Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant company was incorporated as Kiran Energy Solar Private Limited on June 18, 2010 (CIN: U40106MH2010PTC204421). It is engaged in the business of developing solar projects in India.

The applicant delayed the reporting of receipt of inward remittances, beyond the stipulated period of 30 days, in contravention of Regulation 5(1) read with Para 9(1)(A) of Schedule I of Notification No. FEMA 20/2000-RB. The details are as follows:

S.No.	Name of the remitter	Amount (INR)	Date of receipt	Date of reporting
1	Bessemer Venture Partners Trust	62,90,534	02.07.2010	15.09.2010
2	Bessemer Venture Partners Trust	58,49,752	11.08.2010	27.09.2010
Total		1,21,40,286		

Further, the applicant company delayed the reporting of downstream investment to SIA/FIPB, on several occasions, beyond the stipulated period of 30 days, in contravention of Regulation 14(6)(ii)(a) of Notification No. FEMA 20/2000-RB. The details are as follows:

S.No.	Name of the investee company	Amount invested (INR)	Date of investment	Date of reporting
1	Solarfield Energy Pvt. Ltd.	50,000	20.09.2010	25.02.2011
2	-do-	49,990	08.12.2010	25.02.2011
3	-do-	10,00,000	08.07.2011	14.10.2011
4	-do-	30,00,000	05.09.2011	14.10.2011



5	-do-	90,00,00,000	09.09.2011	14.10.2011
6	Solarfield Energy Two Pvt. Ltd.	1,00,000	13.09.2011	14.10.2011
7	-do-	13,50,00,000	25.11.2011	16.02.2012
8	Solarfield Energy Four Pvt. Ltd.	1,00,000	11.10.2012	18.12.2012
9	Kiran Solar One Pvt. Ltd. (formerly known as Mahindra Solar One Pvt. Ltd.)	21,34,620	21.09.2010	25.02.2011
10	-do-	4,78,65,500	07.10.2010	25.02.2011
11	-do-	6,47,00,000	31.12.2010	25.02.2011
12	-do-	1,66,50,000	29.04.2011	05.10.2011
13	-do-	33,50,000	02.05.2011	05.10.2011
14	Kiran Renewables Pvt. Ltd.	1,00,000	19.04.2013	03.06.2013
15	-do-	5,00,000	08.09.2014	26.11.2014
16	-do-	1,50,00,000	17.09.2014	26.11.2014
17	-do-	30,00,000	25.09.2014	26.11.2014
18	-do-	1,55,00,000	29.09.2014	26.11.2014
19	-do-	70,00,000	30.09.2014	26.11.2014
20	-do-	31,00,000	16.12.2014	28.01.2015
21	-do-	3,00,000	22.12.2014	28.01.2015
22	-do-	11,00,000	29.01.2015	10.03.2015
23	-do-	10,00,000	04.02.2015	10.03.2015
24	Kiran Suryaprakash India Pvt. Ltd. (through Kiran Solar One Pvt. Ltd.)	80,51,00,000	23.01.2012	07.05.2012
25	Mahindra Suryaurja Pvt. Ltd. (through Kiran Solar One Pvt. Ltd.)	1,00,000	23.01.2012	07.05.2012
Total		202,58,00,110		



3. Regulation 5(1) of Notification No.FEMA.20/2000-RB provides permission for purchase of shares or convertible debentures or warrants of an Indian company under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule I.

According to Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB, “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to this Schedule along with a copy/ies of Foreign Inward Remittance Certificate/s (FIRC), Know Your Customer (KYC) report on the non-resident investor and details of the Government approval, if any”.

According to Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, as then applicable, “Downstream investments by Indian companies will be subject to the following conditions: (a) such a company has to notify Secretariat for Industrial Assistance, DIPP and FIPB of its downstream investment in the form available at....within 30 days of such investment...”.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/5720/15.20.67/2018-19 dated March 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on April 11, 2019 during which Ms. Madhuri Dalal and Shri Kishore Joshi, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated February 01, 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 the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. 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. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 5(1) read with paragraph 9(1)(A) of Schedule I and Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, as amended from time to time. The amount and period of contraventions are as follows:

- (i) Regulation 5(1) read with para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 1,21,40,286/-; Period of contravention ranges from 1 month to 2 months approximately.
- ii) Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 202,58,00,110/-; Period of contravention ranges from 3 days to 5 months approximately.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to compound the contraventions, 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 Rs. 1,39,792/- (Rupees one lakh thirty nine thousand seven hundred and ninety two only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(1) read with paragraph 9(1)(A) of Schedule I and Regulation 14(6)(ii)(a) of Notification No.FEMA.20/2000-RB, on payment of a sum of Rs. 1,39,792/- (Rupees one lakh thirty nine thousand seven hundred and ninety two only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, 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.

The application is disposed accordingly.

Dated this the 30th day of April, 2019

Sd/-
(Ajay Kumar Misra)
Chief General Manager