



In the
Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

N Mohana
General Manager

Date: October 31, 2019
C.A.926/2019

In the matter of

M/s. Phocos India Solar Pvt Ltd.
(Formerly Steca India Solar Pvt Ltd.)
No.140, Mahatma Gandhi Road
Kottakuppam
Villupuram – 605 104

(Applicant)

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

Order

The applicant has filed a compounding application dated July 12, 2019 (received at Reserve Bank on July 15, 2019) 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 to



Reserve Bank the inflow of funds received from a person resident outside India for allotment of shares and (ii) delay in submission of Form FC-GPR to Reserve Bank on allotment of shares in terms of Paragraph 9(1)A and Paragraph 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 3, 2000, as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on February 07, 2000 under the provisions of the Companies Act, 1956 (Registration No. U40106TN2000PTC044102) and is engaged in the business of manufacture of other electrical equipment. The applicant has received foreign inward remittances from i) M/s. Solar Development Foundation, USA and ii) Phocos AG, Germany towards subscription to shares and reported the same to the Reserve Bank as detailed below:

| Sl. No | Amount of Foreign Inward Remittance (₹) | Date of receipt | Reported to RBI on |
|--------|---|-----------------|--------------------|
| 1 | 19,74,520.00 | 25.03.2004 | 19.05.2004 |
| 2 | 25,480.00 | 20.04.2004 | 19.05.2004 |
| 3 | 45,41,500.00 | 07.06.2010 | 03.12.2010 |

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from 25 days to four months 26 days approximately beyond the stipulated time of 30 days in respect of remittances at Sl.Nos 1 and 3. 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 allotted shares and filed FC-GPRs as indicated below:

| Sl. No. | No. of share allotted | Face Value ₹ | Amount ₹ | Date of allotment of shares | Reported to RBI on |
|---------|-----------------------|--------------|----------|-----------------------------|--------------------|
|---------|-----------------------|--------------|----------|-----------------------------|--------------------|



| | | | | | |
|---|-------|------|--------------|------------|------------|
| 1 | 20000 | 100 | 20,00,000.00 | 29.04.2004 | 12.05.2004 |
| 2 | 2129 | 2133 | 45,41,157.00 | 09.10.2010 | 21.03.2018 |

The applicant filed the forms FC-GPR as indicated above with a delay of seven years four months 13 days approximately beyond the stipulated time of 30 days in respect of allotment at Sl.No.2. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No. 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 person resident outside India.

4. The applicant was advised about the contraventions vide memoranda dated June 11, 2018 and August 06, 2018. The applicant has filed a compounding application dated July 12, 2019 wherein it has been declared in the compounding application 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 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. Accordingly, the above contraventions which are being compounded in 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.

5. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated October 28, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant did not appear for the personal hearing scheduled on October 31, 2019. 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.



6. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application. 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 receipt of inward remittance towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹65,16,020.00 with duration of contravention ranging from 25 days to four months 26 days approximately;

(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 ₹45,41,157.00 with the duration of contravention being seven years four months 13 days approximately;

7. In terms of Section 13 of the FEMA, 1999, 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 **₹75,080/-** (Rupees seventy five thousand and eighty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9(1)A and 9(1)B of Schedule I to Notification No. FEMA 20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of **₹75,080/-** (Rupees seventy five thousand and eighty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai within a period of **15 days** from the date of this order. In case of failure to



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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 thirty first day of October, 2019.

Sd/-
N Mohana
General Manager